

HERNANDEZ - DIRECT - PEOPLE

1           A. We went to a door, I think it was the  
2 southwest door at the end when you turn to the right  
3 coming onto the landing, and we went up to the door on  
4 the corner that would be the door to the apartment to  
5 the rear, and Detective Romero tried the keys in the  
6 lock that he recovered from the second floor apartment.

7           Q. Referring to these keys (indicating)?

8           A. Yes, sir.

9           Q. Is this the lock you put the key in?

10          A. Yes.

11          Q. Did it turn?

12          A. Yes, sir.

13          Q. Please tell the members of the jury what  
14 occurred when Detective Romero attempted to open the  
15 southwest apartment door with the key?

16          A. Once we realized that it was working and it  
17 was the key for the apartment, we started knocking on  
18 the door. We yelled at the police that were at the  
19 door that we were at the door. The supervisors were  
20 there. They saw --

21               THE COURT: You can't say what the  
22 supervisors saw. Just what you saw, what you  
23 heard, what you did.

24          A. I was standing there with several people and I  
25 started yelling police. I heard other people yelling

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1 it. We waited there. Detective Romero turned the key,  
2 pushed the door open. Um, it was pitch dark. Couldn't  
3 see anything in the room, nothing. There was no light  
4 on. There was nothing on in the room. He closed the  
5 door back again and then left and went downstairs. He  
6 returned back with one of the police stick shields, one  
7 of the bunkers and a flashlight. Once I was ready, he  
8 opened the door and several -- myself and Detective  
9 Romero and several other members of my team entered  
10 into the room, into that apartment. He put on a  
11 flashlight, turned into the apartment to the right and  
12 started yelling -- we all started yelling, police,  
13 don't move. At that point, we observed there was an  
14 individual sitting on a sofa, on a couch to the right  
15 of the entry on the sofa not saying anything. Yelled  
16 again for the person to get down on the ground. The  
17 person did not move. We went in. We found a light  
18 switch, turned it on, and secured the individual in the  
19 apartment.

20 Q. Just to back up one moment. How big was this  
21 room --

22 THE COURT: Is this one of the minuscule  
23 rooms we have talked about so much so often?

24 THE WITNESS: Yes, sir.

25 THE COURT: Fine. Tiny room, he says.

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1 Q. In relation to the jury box, would you say  
2 bigger, smaller, the same size?

3 A. About the size of this, from the end from  
4 where the wall is to about the end here. Almost the  
5 same in width, maybe a little thinner. The passageway  
6 was very small to walk in.

7 Q. Do you recall how many windows were in this  
8 room?

9 A. One, if I remember correctly.

10 Q. You said it was pitch black. The shades were  
11 down?

12 A. Shades were down and black garbage bags over  
13 the glass.

14 Q. Did this room have a closet?

15 A. Yes, sir.

16 Q. Can you explain the layout of the room?

17 A. As soon as you go in, there is a closet  
18 immediately to your left and the rest of the room goes  
19 to your right. At the end of it, there's a window.

20 Q. Now, you said at the time the lights went on,  
21 you saw an individual sitting, not moving, on the  
22 couch; is that right?

23 A. That is correct.

24 Q. Did you come to learn that individual's name?

25 A. Yes, sir.

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1 Q. What was that individuals name?

2 A. Mr. Edward Green.

3 Q. Do you see Edward Green in the courtroom here  
4 today?

5 A. Yes, sir.

6 Q. Can you point to him and indicate an article  
7 of clothing?

8 A. To my right. He has a -- a beige-colored shirt  
9 and beard and eyeglass case sticking out of his shirt  
10 pocket.

11 THE COURT: So that's the defendant,

12 Mr. Green.

13 Q. Is there anyone else in the room at this time  
14 with the defendant?

15 A. No, sir.

16 Q. Please explain exactly how the defendant was  
17 sitting when you entered the room.

18 A. Just sitting there, not saying anything.

19 Q. Please tell the members of the jury everything  
20 you observed inside of this room once the light switch  
21 went on.

22 A. Okay, the minute the lights went on and we  
23 secured Mr. Green to make sure that everyone was safe  
24 and we checked the closet to make sure no one was in  
25 there, immediately in the closet, I observed two safes,

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1 two large safes in the closet. Throughout the room,  
2 specifically, there was a fireplace, like a mantel,  
3 fireplace mantel on it was several boxes of baggies,  
4 clear plastic baggies a bottle of Peroxide, box of  
5 baking soda. On the TV stand above that was a DVD  
6 player and above that was a monitor, like a small  
7 monitor I've observed in the past. There was a small  
8 black digital scale sitting on the stand by where the  
9 TV was. Towards the rear by the window, there was a  
10 metal tin. In the tin, there were a whole bunch of  
11 small, clear plastic baggies, some of them with the Red  
12 Apple label on it and a pink Philly box, similar to the  
13 ones observed downstairs on the second floor, sitting  
14 on an end table. Those were the things that  
15 immediately, upon entry to the apartment, I observed.

16 Q. Did you notice in the apartment a table that  
17 would be used to process or package narcotics?

18 A. Yes, sir. As soon as you went into the  
19 apartment, basically a little to your left, next to the  
20 closet door, there was a glass table. On the glass  
21 table was, again, cocaine residue --

22 MR. KEITH: Objection.

23 THE COURT: Why do you think it is  
24 cocaine residue?

25 THE WITNESS: Because it was consistent

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1 with the appearance of cocaine and of cocaine  
2 residue that I observed hundreds of times in the  
3 past.

4 THE COURT: Overruled.

5 Go ahead.

6 A. Underneath that was a heat sealer utilized to  
7 seal plastic, underneath that table.

8 Q. When you say a heat sealer utilized to seal  
9 plastic, take a look at the exhibit in front of you.  
10 Are those bags heat sealed closed?

11 A. Yes.

12 Q. You would need a heat sealer like the one  
13 found in the fourth floor to seal bags found on the  
14 second floor?

15 A. That is correct, sir.

16 Q. In total, in this room, do you know how many  
17 digital scales were recovered?

18 A. I think ten, approximately ten digital scales  
19 were recovered.

20 Q. Were these scales different shapes and sizes?

21 A. Yes, sir. There -- they were all digital  
22 scales and they varied from small black digital scales  
23 to large scales of multiple colors. Some of them were  
24 used and some of them were brand-new.

25 Q. Were these scales --

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1 THE COURT: Do we have them?

2 MR. BERLAND: I'm going to get to them.

3 THE COURT: Then we do not have to test  
4 his memory. What's next?

5 Q. Heat sealers, let's talk about that. You  
6 testified to observing a heat sealer on the ground. How  
7 many heat sealers recovered within the room?

8 MR. KEITH: Objection to the form.

9 THE COURT: On what grounds?

10 MR. KEITH: I think he can be a little  
11 more specific as to where the heat sealers were  
12 found.

13 THE COURT: How many heat sealers did you  
14 see?

15 THE WITNESS: Three, sir. One was  
16 underneath the table, and I think -- there's notes  
17 on the other one. I think one was in a closet and  
18 one on the end table.

19 Q. We'll get to the closet in a minute?

20 MR. KEITH: One in the end table.

21 THE WITNESS: I think so. I'm not  
22 hundred percent sure.

23 THE COURT: We'll spend time until we get  
24 to that, but let's get to it somehow, some day,  
25 today.

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1 MR. BERLAND: Getting there, Your Honor.

2 THE COURT: But not fast enough, but  
3 that's my problem. Go ahead.

4 Q. Can you describe the characteristics of all  
5 the plastic bags you observed inside the back room? I  
6 know you testified to recovering plastic bags.

7 A. They were clear plastic bags, like sandwich  
8 type bags, in boxes and there were multiple, hundreds  
9 of thousands of small Ziploc bags which have the Apple  
10 logo on it and numerous other bags of different sizes.

11 Q. You testified a few moments ago about  
12 observing on a mantel baking soda?

13 A. Yes, sir.

14 Q. As a trained narcotics detective, what is the  
15 significance of the presence of this types of products  
16 in a room such as this room?

17 MR. KEITH: Objection.

18 THE COURT: Sustained as to form.

19 What are the things used for? What can  
20 they be used for regarding drugs as opposed to  
21 bleaching your hair and cleaning wounds?

22 THE WITNESS: Mixing items, such as  
23 baking soda, use liquids to cut, to mix the baking  
24 soda with the cocaine so that, one, you can lower  
25 the concentration and purity of the cocaine, the

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1 strength of it, and so you can increase the amount  
2 of viable substance, a mixed cocaine substance  
3 that you have for sale. It increases the quantity  
4 you have available.

5 Q. What exactly is a kilo wrapper?

6 A. We call it a kilo wrapper because it's wrapped  
7 in the shape of a brick which is commonly the shape of  
8 a brick of kilo, thousand grams of cocaine. It's  
9 pressed into a brick form, and the wrappers, when they  
10 are recovered, they are in the brick form still with  
11 residue.

12 Q. Any kilo wrappers recovered within the fourth  
13 floor room?

14 A. Yes, sir.

15 Q. Approximately how many, if you recall?

16 A. At least two.

17 Q. And where were these wrappers located?

18 A. Inside a black garbage bag.

19 Q. Let's talk about the closet in the room that  
20 you mentioned earlier.

21 You testified the closet was open. Did  
22 you do that or somebody else?

23 A. No, the closet door was open, but I went and  
24 pushed it open further to make sure that there was no  
25 one hiding inside.

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1 Q. When you say "it was open," do you mean it was  
2 open when you and your team entered the fourth floor or  
3 you observed someone open it?

4 A. That when we went there, it wasn't locked, and  
5 it was pulled open by Detective Romero since he had the  
6 bunker, and then I looked into it to make sure there  
7 was no one inside. It wasn't so big that somebody  
8 could hide on top of the safes, but we wanted to make  
9 sure.

10 Q. You just said a safe. How many safes in the  
11 closet?

12 A. Two of them.

13 Q. Anything else in closet other than the two  
14 safes?

15 A. Yes, there were other what we call drug  
16 paraphernalia or packaging equipment. A lot of the  
17 clear plastic bags with the Apple label, a couple of  
18 boxes containing plastic bags in it, in the closet,  
19 literally around the closet. I think there were digital  
20 scales in there also.

21 Q. Were the scales inside the safe?

22 A. Outside.

23 Q. But in the closet?

24 A. That's correct.

25 Q. Can you describe the two safes to the members

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1 of the jury?

2 A. Yes. One was a white -- they're both fire  
3 retardant safes with combination, spindle dials on the  
4 front of them. They were pretty large and heavy. One  
5 was white and one was gray.

6 Q. Now, did these safes have a key lock or  
7 combination to enter the safe?

8 A. They had the combination spindle wheel on it.

9 Q. Just out of curiosity --

10 THE COURT: Curiosity? Where in the  
11 rules of evidence is curiosity? Do you want to  
12 ask a question? Do not give me that kind of a  
13 lead in because I likely would say no. You want  
14 curiosity, go have a beer with the witness  
15 sometime.

16 Q. Detective Hernandez, did you observe the  
17 combination to a lock on Mr. Green's hand?

18 A. Did I observe it?

19 Q. Yes.

20 A. Not that I can recall.

21 Q. Did you observe, if you can recall, a  
22 combination to a lock on his forehead?

23 A. No, sir.

24 Q. What did you do once you realized there were  
25 the two safes in the closet?

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1           A. Well, they were, as all the other items,  
2 everything was -- everything was left where it was,  
3 safeguarded. When we had permission to enter it, we  
4 took them out and broke them open --

5           Q. I'm going stop you. I apologize.

6           MR. KEITH: Your Honor, the witness  
7 should be allowed to finish the answer to the question.  
8 That was pretty good.

9           THE COURT: I agree that we stop and  
10 start. He's correct, that while I haven't told  
11 the jury that there's not one thing related to the  
12 mechanics and legality of executing search  
13 warrants that you have anything to do with, he is  
14 entitled to establish from his standpoint that  
15 they had another warrant to do this and forgot to  
16 do that.

17           Before you smashed open the safe,  
18 Detective Romero came down and got a search  
19 warrant?

20           THE WITNESS: Yes, sir.

21           A. We used a sledge hammer and Kelly tool, and  
22 used it on the two safes to open the safes.

23           Q. When Detective Romero came down to this  
24 building to get a supplemental search warrant, what  
25 were you doing in the fourth floor apartment?

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1           A.    Hanging out. I was basically just standing  
2 around killing time.

3           Q.    Securing the property?

4           A.    Yes, sir, and safeguarding the room until we  
5 heard from Detective Romero.

6           Q.    Let's get back into smashing the safes.  
7 Continue.

8           A.    We opened up both safes. In the gray safe, the  
9 one that was a little bit bigger was a white I would  
10 describe it as baby gift bag that you put gifts in. In  
11 there was three plastic bags, each containing a large  
12 chunk of cocaine. That was in the gray safe. In the  
13 white safe there were several items. There was a  
14 couple more Philly cigar boxes, there was actually two,  
15 I think a Dutch Master cigar box and Philly blunt cigar  
16 box. One of the boxes contained about \$1,100 in United  
17 States currency and also several quantities of packaged  
18 cocaine. The other box, the Dutch Masters box had a  
19 couple of bags of cocaine. The smaller one, the Philly  
20 box had the cocaine sealed up and ready for sale,  
21 packaged.

22           Q.    Did there come a time when you were inside of  
23 the fourth floor apartment that the defendant was  
24 placed under arrest?

25           A.    Yes, sir.

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1 Q. Was any money recovered from him?

2 A. Yes, sir.

3 Q. Do you recall how much?

4 A. I think it was about \$330, somewhere  
5 around \$330.

6 Q. Now, inside of baby bag, you said there were  
7 three large chunks of cocaine?

8 A. Yes, sir.

9 Q. Did you later come to learn the weight of the  
10 chunks?

11 A. Yes, sir.

12 Q. What would that be?

13 A. Each was about 125 grams, maybe off by 125,  
14 126 and 125. They came out to close to 375, 400 grams  
15 of cocaine.

16 MR. BERLAND: This is People's Exhibit 5  
17 for identification.

18 Q. What is this?

19 A. The heat sealers recovered in that room, that  
20 apartment.

21 Q. Again, where were the heat sealers recovered?

22 A. I know one was underneath the glass top in the  
23 right when you came into the apartment on a desk. I  
24 would have to take a look at the notes to see where I  
25 recovered the other ones.

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1 Q. That would refresh your recollection?

2 A. Yes, sir.

3 Q. Take a look what's marked 101 for  
4 identification?

5 MR. KEITH: May I have a moment with the  
6 prosecutor?

7 THE COURT: Sure. What's the difficulty?  
8 It's only being used to refresh his recollection.

9 MR. KEITH: Let's approach.

10 Q. The question was, do you recall where the  
11 additional four heat sealers were located within the  
12 apartment?

13 A. Yes, sir.

14 MR. KEITH: Your Honor, the detective is  
15 reading from something. Can we have that  
16 explained?

17 THE COURT: Are these notes you created  
18 or somebody else created?

19 THE WITNESS: Both, Your Honor.

20 MR. KEITH: I object to him reading from  
21 it.

22 THE COURT: Technically, you're  
23 absolutely correct. He should not read it. He  
24 should look at it, put it down, see if it  
25 refreshes his recollection. If it doesn't, he can

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1 pick it up and take another look at it. That is  
2 the rule, which he's perfectly entitled to.

3 Q. Now, that you have looked at it, does that  
4 document refresh your recollection?

5 A. Yes, sir.

6 Q. Where were the other heat sealers located?

7 A. In the top drawer of the end table, which was  
8 right next to the glass top, in that end table itself.

9 Q. Were there three, two, more there?

10 A. The one that was right next to the end table  
11 on the floor underneath the glass top and the one in  
12 the end table right next to the glass top on the top  
13 drawer.

14 Q. In total, how many heat sealers were recovered  
15 in the apartment?

16 A. Three.

17 THE COURT: Where do you buy a heat  
18 sealer? People know about buying plastic bags,  
19 Peroxide.

20 THE WITNESS: Several locations. You can  
21 buy a heat sealer at any appliance store, like a  
22 Walmart, but in Manhattan, especially, any small  
23 grocery stores where they sell packaging, digital  
24 scales, they also sell heat sealers.

25 Q. Before you take a look at the digital scale, I

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1 ask that that exhibit be moved into evidence?

2 MR. KEITH: I object. I don't think a  
3 sufficient connection has been made.

4 THE COURT: We can wait for Detective  
5 Romero. We'll suspend with that one.

6 Q. Take a look at People's Exhibit 6, please.

7 A. Yes, sir.

8 Q. What is that?

9 A. These are some, most of the digital scales  
10 recovered in that apartment on the fourth floor.

11 Q. How many digital scales contained within  
12 People's Exhibit 6, if you know?

13 A. I think's two of them in here.

14 Q. Did you recover the items within the  
15 apartment?

16 A. Yes, sir.

17 Q. Where in the room were the items located?

18 A. Several locations. They were recovered in  
19 small Philly boxes on an end table by the window. They  
20 were recovered in the closet. Most of them were  
21 recovered in the closet in the apartment.

22 THE COURT: The punctuation of your last  
23 sentence confused me. When you talk about end  
24 table by the window, is it end table, and also by  
25 a window or the end table which was by the window?

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1 When you are talking about an end table by the  
2 window, is that describing the location of one  
3 scale or two scales?

4 THE WITNESS: The end table by the window  
5 and it's two scales, Your Honor.

6 MR. KEITH: The two scales are inside the  
7 end table?

8 THE WITNESS: No. One of the Philly  
9 boxes on top of the end table.

10 Q. Did you personally recover these items?

11 A. Yes, sir.

12 Q. What did you do with the items after  
13 recovering them?

14 A. They were safeguarded by myself and I went  
15 with Detective Romero once he returned with all the  
16 property back to my command.

17 Q. As far as the items contained within the  
18 exhibit, did you do the voucher?

19 A. In this exhibit, no. I think Detective Romero  
20 did them, but I did not.

21 MR. BERLAND: Your Honor, at this time, I  
22 offer People's Exhibit 6 into evidence.

23 THE COURT: Mr. Keith --

24 MR. BERLAND: Actually, one more  
25 question.

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1 Q. The items contained within People's Exhibit  
2 section are the same or substantially the same  
3 condition as they were when you recovered them on  
4 November 1, 2007?

5 A. Yes, sir.

6 MR. BERLAND: I ask that they be offered  
7 into evidence.

8 MR. KEITH: No objection.

9 THE COURT: Number 6 is received. We'll  
10 mark it more formally later.

11 (People's Exhibit 6 was received in  
12 evidence.)

13 Q. What is that in front of you?

14 A. This is the two cameras that were recovered  
15 from the building, which were the cameras being  
16 utilized in the surveillance of the front of the  
17 doorway and the hallway, the stairwell, and a small  
18 black digital scale which was recovered on the TV  
19 stand, on the entertainment center or where the TV was  
20 and monitor was.

21 Q. The TV stand, was it enclosed or open?

22 A. Open.

23 Q. Where on the stand was the scale located?

24 A. There were some CDs, DVDs and on top of that.

25 Q. Was the TV monitor on or off when you entered

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1 the apartment?

2 A. The monitors were off.

3 Q. Did you personally take down the cameras  
4 located outside of the building and in the stairwell?

5 A. No, sir.

6 Q. Did there come a time they were given to you?

7 A. Yes, sir.

8 Q. Do you know if you vouchered that evidence?

9 A. I assisted in the vouchering of this evidence.

10 Q. Did the contents of People's Exhibit 7 fairly  
11 and accurately depict -- in the same condition as they  
12 were when you vouchered them on November 1, 2007?

13 A. Yes, sir.

14 MR. BERLAND: I ask that People's 7 be  
15 moved into evidence.

16 MR. KEITH: Brief voir dire.

17 THE COURT: Sure.

18 VOIR DIRE EXAMINATION BY

19 MR. KEITH:

20 Q. With regard to the TV and monitor in the  
21 fourth floor apartment, it's correct that you never saw  
22 those items in working condition?

23 A. I saw the TV screen -- the T.V. was in working  
24 condition and the monitor was working, but had static  
25 on it.

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1 Q. When you say "had static," you couldn't see  
2 anything?

3 A. Yeah, it was just a white screen.

4 Q. With regard to the TV, what were you able to  
5 see on the TV screen?

6 A. The fact that it was connected to a DVD  
7 player. The DVD logo came on.

8 Q. So, is it fair to conclude, just being  
9 precise, if I understood you correctly, you just saw a  
10 white screen on the monitor, and you were unable to  
11 discern that the TV was connected to a DVD player?

12 A. That is correct.

13 THE COURT: Is this as you entered the  
14 first time?

15 THE WITNESS: This is while I was at the  
16 location and after being there for some time  
17 turned them on.

18 THE COURT: Did you see anything as a  
19 light source, however faint, when you and  
20 Detective Romero opened the door for the first  
21 time?

22 THE WITNESS: No, sir.

23 THE COURT: So the monitor that you say  
24 later had static when you came in was black?

25 THE WITNESS: That's correct.

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1 THE COURT: It was not emitting any  
2 light?

3 THE WITNESS: That's correct, sir.

4 THE COURT: The exhibit is admitted.

5 MR. KEITH: I don't see the relevance.

6 THE COURT: I think the evidence is  
7 there. Objection is overruled. Number seven is  
8 received.

9 (People's Exhibit 7 was received in  
10 evidence.)

11 THE COURT: Continue.

12 CONTINUED DIRECT EXAMINATION BY

13 MR. BERLAND:

14 Q. There came a point you turned on the monitor  
15 and saw static?

16 A. Yes.

17 Q. Had the cameras been ripped down by members of  
18 your field team?

19 A. Yes.

20 Q. Based on your training and experience and  
21 common knowledge, when the camera is ripped down, will  
22 you be able to see anything?

23 MR. KEITH: Objection.

24 THE COURT: Sustained.

25 MR. KEITH: Thank you.

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1 THE COURT: Don't thank me. I am just  
2 doing my job.

3 Q. Were both the cameras when People's Exhibit 7  
4 taken down or ripped off the wall at the time you  
5 switched on the monitor and saw static?

6 MR. KEITH: Objection.

7 THE COURT: Overruled. If he knows the  
8 sequence.

9 A. It was ripped down before I turned on the  
10 monitor.

11 THE COURT: Is this number eight?

12 MR. BERLAND: It is Your Honor.

13 Q. What is this?

14 A. This is all -- the Philly box or one of the  
15 Philly boxes, pink boxes, cigar boxes recovered from  
16 the end table which is by the window in the fourth  
17 floor room apartment which had contained a scale and  
18 some plastic Baggie packaging, as well as plastics that  
19 were removed from the garbage inside the apartment,  
20 including the wrappers, the kilo wrappers that I spoke  
21 about earlier.

22 Q. The kilo wrappers are within that exhibit?

23 A. Yes, sir.

24 Q. Did you recover any playing cards within the  
25 fourth floor apartment?

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1 A. Yes, sir.

2 Q. And was anything of significance to you on  
3 those playing cards?

4 A. Yes. They also contained signs of white  
5 powder on them, residue from cocaine on them.

6 Q. How many of those playing cards did you  
7 voucher?

8 A. I think there's one in here. There were  
9 multiple cards in the garbage and they were left in the  
10 garbage.

11 Q. I don't think I ever asked you; what does it  
12 mean to voucher property?

13 A. To take it into police custody, to account for  
14 it and to place it into safekeeping in case it needs to  
15 be reviewed, utilized or observed in the future.

16 Q. The items in People's Exhibit 8, you recovered  
17 those items?

18 A. Yes, sir.

19 Q. Are they in the same condition or  
20 substantially the same condition as they were on  
21 November 1, 2007?

22 A. Yes, sir.

23 MR. BERLAND: I ask that this be offered  
24 into evidence as People's Exhibit 8.

25 THE COURT: Mr. Keith.

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HERNANDEZ -VOIR DIRE - DEFENSE

1 MR. KEITH: I need to ask a couple of  
2 questions, Your Honor.

3 VOIR DIRE EXAMINATION BY

4 MR. KEITH:

5 Q. With regard to the playing cards, do you  
6 recall where they were located?

7 A. Yes, sir. One was by the end table with the  
8 glass counter.

9 Q. On it or in it?

10 A. Actually, excuse me, one in the Philly box  
11 that was in the safe and the majority of them were in  
12 the garbage bag.

13 Q. How many playing cards were there?

14 A. There were several.

15 Q. Several?

16 A. Yes.

17 THE COURT: Ten? Fifteen? Twenty?

18 THE WITNESS: I would say between five  
19 and ten, something around there Your Honor.

20 Q. One was inside the Philly box and several were  
21 in the garbage?

22 A. Yes, sir.

23 MR. KEITH: No objection.

24 THE COURT: All right, 8 is received.

25 (People's Exhibit 9 was received in

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1 evidence.)

2 THE COURT: What else?

3 CONTINUED DIRECT EXAMINATION BY

4 MR. BERLAND:

5 Q. Within Exhibit 8, there's a Philly box in  
6 there?

7 A. Yes, sir.

8 Q. Before lunch or earlier this afternoon, you  
9 were discussing the Philly box you observed in the  
10 second floor apartment. Do you recall that?

11 A. Yes, sir.

12 Q. I will withdraw that and back up a moment.

13 Was there any residue or what you believe  
14 to be a white powder substance within the Philly box in  
15 People's Exhibit 8?

16 A. Yes, sir.

17 Q. The Philly box from the second floor, did you  
18 observe residue or white powdery substance in that box?

19 A. I don't recall if there was. I know there was  
20 on the glass tops, but I'm not too sure -- I don't  
21 recall now whether there was in the Philly boxes  
22 downstairs in the second floor or not.

23 Q. The Philly boxes down on the second floor,  
24 were they vouchered evidence?

25 A. No, sir.

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1 Q. Were pictures taken of those?

2 A. Yes, sir.

3 Q. Do you know, sitting here, why those Philly  
4 boxes on the second floor were not vouchered? If you  
5 know.

6 A. Because the items were recovered from them  
7 that were significant to the case, the plastic Baggies,  
8 that was it.

9 Q. And you took -- withdrawn.

10 Pictures were taken of everything  
11 recovered from the second floor?

12 A. That is correct, sir.

13 Q. That is People's Exhibit 9 for identification.  
14 Do you recognize that all that?

15 A. Yes, sir.

16 Q. What is it?

17 A. Also items recovered in the fourth floor  
18 apartment, specifically the Dutch Master box which  
19 contained bags of cocaine recovered in the white safe.  
20 The Philly blunt pink box that was also recovered with  
21 money and sealed ready bags of cocaine. The sandwich  
22 bags recovered on the mantel in the -- next to the TV  
23 unit and boxes of plastic bags that were also recovered  
24 in the closet, as well as multiple Apple and clear  
25 plastic bags, clear Ziploc bags recovered from the

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1 window and the closet and in the end table. Also, I'm  
2 sorry, the gift bag that had the three plastic bags  
3 containing chunks of cocaine recovered in the gray safe  
4 is also in here.

5 Q. You testified to a lot of plastic bags  
6 contained within the exhibit. Can you break down, if  
7 you can, where in the apartment everything was?

8 A. Some of the Ziploc Baggies were in the Philly  
9 box on top of the end table by the window at the end of  
10 the room. Some of them were in the end table by the  
11 glass countertop. Some of them were in -- a good  
12 portion of them were in the closet by the safes and on  
13 little shelves that were in the closet.

14 Q. Did you personally recover the items contained  
15 within that exhibit?

16 A. Yes, sir.

17 Q. Are the items within Exhibit 9 the same  
18 condition or substantially the same condition as when  
19 you recovered them on November 1st of last year?

20 A. Yes, sir.

21 MR. BERLAND: I ask that these be  
22 received into evidence as People's Exhibit 9.

23 THE COURT: What are the smaller  
24 cardboard boxes that don't appear to have labels  
25 on them?

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1 THE WITNESS: They also contain bags in  
2 them of different colors to be sealed.

3 MR. KEITH: That was stuff from out of  
4 the closet?

5 THE WITNESS: These boxes, yes, came out  
6 of the closet.

7 THE COURT: Were they purchasable?

8 THE WITNESS: Yes, in grocery stores  
9 where you buy newspapers and DVDs and those types  
10 of items, stationery-type stores that you see with  
11 magazines. A lot of them will sell this and  
12 digital scales and other packaging materials  
13 needed to package cocaine.

14 THE COURT: Putting aside packaging. The  
15 boxes you were just referring to, they're  
16 purchasable, but not labeled? The white Baggies  
17 in the envelope are labeled?

18 THE WITNESS: Yes, sir.

19 THE COURT: One is advertising itself and  
20 the other isn't?

21 THE WITNESS: That is correct, sir.

22 MR. KEITH: I have no objection.

23 THE COURT: Nine is received.

24 (People's Exhibit 9 was received in  
25 evidence.)

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1 THE COURT: What's next?

2 Q. You've been handed People's Exhibit 10 for  
3 identification. What is that?

4 A. Yes, sir. This is all the cocaine that was  
5 recovered from the safes, from both safes in the fourth  
6 floor apartment of 451 Lenox Avenue on November 1,  
7 2007.

8 Q. Can you explain how it was broken down? I see  
9 there is a lot of cocaine in that bag?

10 A. Yes. I took the items and broke them down,  
11 too, depending on where they were, which safe, and how  
12 they were packaged. I wanted to keep them basically  
13 together when they were vouchered. So, they were  
14 broken down to I think about possibly eight items, with  
15 each item in it; one plastic bag containing ten bags,  
16 one plastic bag containing 20 bags of cocaine and so on  
17 and so forth.

18 Q. The larger bag within People's Exhibit 10, how  
19 was that packaged?

20 A. In clear plastic bags, sandwich-type.

21 Q. Heat sealed, tied, loose?

22 A. They were loose.

23 Q. Based on your training and experience as a  
24 narcotics officer, are they in pure form, raw or have  
25 they been cut?

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1 A. They're basically in the way that they're  
2 received before the cocaine is repackaged for sale or  
3 into smaller packaging.

4 Q. Putting side the three large bags. The other  
5 cocaine, was that recovered in the white safe?

6 A. Yes, sir.

7 Q. How was that packaged?

8 A. Various methods. In small Ziplocs, small  
9 heated bags and also in clear plastic bags.

10 Q. More similar to the cocaine found in People's  
11 Exhibit 3?

12 A. That is correct, sir.

13 Q. Which was recovered on the second floor?

14 A. Yes, sir.

15 Q. Now, the table that you testified to earlier,  
16 that was in the fourth floor apartment, is that the  
17 type of table that could be used to process or cut  
18 cocaine, such as the large cocaine in People's  
19 Exhibit 10?

20 A. Yes, sir.

21 Q. Now, was there -- withdrawn.

22 Did you notice white powdery substance  
23 that you believe to be residue scattered or anywhere  
24 within the fourth floor apartment?

25 A. Yes, sir.

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1 Q. Where?

2 A. On the tabletop, on the glass tabletop and on  
3 several other items recovered, such as the Philly box,  
4 such as the scale and the packaging and the garbage bag  
5 with all the plastics?

6 Q. When you entered into the fourth floor  
7 apartment, based on your years of narcotics work and  
8 search warrant executions, what did you believe was  
9 taking place in that apartment?

10 MR. KEITH: Objection.

11 THE COURT: Sustained. The jury will  
12 figure it out one way or the other.

13 Q. Based on your training and experience, was the  
14 fourth floor room consistent with a --

15 MR. KEITH: Objection to leading.

16 THE COURT: I think you should focus on  
17 the individual items and that's pretty much where  
18 I will tell to you leave it. You can go over the  
19 individual items quickly.

20 Q. You recovered the cocaine from within the  
21 safes?

22 A. Yes sir.

23 Q. Is the cocaine in the same condition or  
24 substantially the same condition as it was in on  
25 November 1, 2007?

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HERNANDEZ - DIRECT - PEOPLE

1 A. Yes, sir.

2 MR. BERLAND: I ask that that be moved  
3 into evidence as People's Exhibit 10.

4 MR. KEITH: Can I just see it again?

5 THE COURT: Yes, sir.

6 (HANDING.)

7 MR. KEITH: No objection.

8 THE COURT: All right. Ten is received.

9 (People's Exhibit 10 was received in  
10 evidence.)

11 Q. I will move back very quickly to People's  
12 Exhibit 5. There was a question I forgot to ask you.

13 THE COURT: These are the things  
14 identified as the heat sealers?

15 MR. BERLAND: Correct.

16 THE COURT: Go ahead.

17 Q. Did you recover the heat sealers in the  
18 apartment?

19 A. Yes, sir.

20 Q. And are these heat sealers in the same  
21 condition or substantially the same condition today as  
22 they were back on November 1, 2007?

23 A. Yes, sir.

24 MR. BERLAND: Now, I ask that these be  
25 offered into evidence now.

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HERNANDEZ - DIRECT - PEOPLE

1 THE COURT: There are two new questions  
2 which give an additional basis for five to be  
3 accepted. Anything you want to say, Mr. Keith?  
4 The only thing I suspended introduction of until  
5 we heard from Detective Romero. That's why I said  
6 there are two additional questions and answers  
7 which might serve as a second basis or alternate  
8 basis for receiving these. Then I said is there  
9 anything you wish to say.

10 MR. KEITH: I still object to that.

11 THE COURT: Now received over objection,  
12 Exhibit 5.

13 (People's Exhibit 5 was received in  
14 evidence.)

15 MR. BERLAND: The photographs are  
16 People's Exhibits 11 through 19, which I will show  
17 to the detective in a moment. I believe that will  
18 be nine.

19 THE COURT: These are the pictorially  
20 challenged Polaroids?

21 MR. BERLAND: Pretty much sums it up.

22 Q. What are you looking at?

23 A. The second floor apartment.

24 Q. Who took the pictures?

25 A. A member of the team.

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1 Q. You didn't take them?

2 A. That is correct.

3 Q. Do these pictures fairly and accurately depict  
4 everything you've testified to here today as to the  
5 location, the narcotics and paraphernalia within the  
6 apartment?

7 A. Yes, sir.

8 Q. Briefly go through each picture. Should be a  
9 number on the back.

10 A. Number 11 is the glass stand with the wooden  
11 box and the Philly boxes next to an empty freezer.

12 MR. KEITH: On the second floor?

13 THE WITNESS: Yes, sir.

14 THE COURT: All second floor.

15 A. Number 12 is just a picture from the  
16 entranceway into the apartment on the second floor.  
17 Number 13 is the room to the left when you first enter  
18 the apartment that has a video box on it and a table.  
19 Number 17 -- sorry, number 14 is a picture, again, of  
20 the glass stand and of the freezer and TV screen above  
21 with the green all staticie also, whited out.  
22 Number 15 is the door to that second floor apartment  
23 that says Office of Browns on it. Number 16 is looking  
24 into the apartment to the right towards the kitchenette  
25 and the bathroom. Number 17 is actually a picture of

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HERNANDEZ - DIRECT - PEOPLE

1 the bathroom. Number 18 is a close-up photo of the  
2 brown box with the bags of cocaine and the United  
3 States currency. Number 19 is a partial picture of the  
4 stand as well as of the kitchenette area, little alcove  
5 of the kitchen.

6 MR. BERLAND: I ask that this be moved  
7 into evidence as People's Exhibit 11 through 19.

8 MR. KEITH: No objection.

9 THE COURT: Pictures received.

10 (People's Exhibits 11 through 19 were  
11 received in evidence.)

12 THE COURT: All of these exhibits which  
13 actually are admitted into the evidence as opposed  
14 to something simply for identification, for  
15 example, the voucher that was labeled A, A is not  
16 in evidence, all these exhibits plus the  
17 photographs which are in evidence probably will be  
18 shown to you during the course of the trial.  
19 Whether they are or aren't, they are available for  
20 you during your deliberations if you need them or  
21 want them. They can even stay in there during  
22 your deliberations. If you want the exhibits, any  
23 of them, all of them, just ask me and they'll be  
24 supplied. The point is if we show them to you,  
25 hand them to you, like the photographs, show you

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1 by holding the drug exhibits in front of you, you  
2 do not have to memorize the details of each  
3 because if you want them during the deliberations,  
4 you can ask and they'll be in the room with you.

5 So we have decide at the end of his  
6 examination of the witness, maybe before, maybe  
7 after cross-examination we'll show you the  
8 exhibits.

9 MR. BERLAND: Counsel is looking at  
10 People's Exhibits 20 through 26 for  
11 identification.

12 Q. You are holding People's Exhibits 20  
13 through 26 for identification.

14 A. Yes, sir.

15 Q. Do you recognize these?

16 A. Yes, sir, I do.

17 Q. What are they?

18 A. They are photos that I took inside of the  
19 fourth floor apartment at 451 Lenox Avenue.

20 Q. You took the photographs on the fourth floor?

21 A. Yes, sir.

22 Q. The narcotics division couldn't do any better  
23 than a Polaroid?

24 A. This is what we use when we go out.

25 Q. Let's go through each one.

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1           A.    Number 20 is the white safe which contains a  
2           picture of the Philly blunt box and Dutch Master box  
3           which each contained cocaine. Picture number 21 is what  
4           I mentioned like the fireplace, like a mantel that was  
5           in the room next to the TV stand with a DVD player and  
6           a monitor, and on it the pictures of certain items.  
7           Number 22 is a picture of a tin and some plastic  
8           baggies that were by the window towards the rear of the  
9           apartment. Number 23 were the shelves inside the  
10          closet in that room showing what was on those shelves.  
11          Number 24 was the white safe again, but items that were  
12          inside the white safe inside the boxes. Number 25 is  
13          the gray safe showing the gift bag with the items that  
14          were inside the gift bag. Number 26 was a closer view  
15          of the three clear plastic bags inside the gift bag.  
16          Number 27 was the glass top table with a picture of the  
17          heat sealer and end table right next to it in that  
18          room.

19          Q.    Now, do these pictures fairly and accurately  
20          depict the way all of the items located in the fourth  
21          floor appeared on November 1, 2007?

22          A.    Of these items, yes, sir.

23          Q.    And you took these pictures?

24          A.    Yes.

25               MR. BERLAND: I ask the photographs be

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HERNANDEZ - VOIR DIRE - DEFENSE

1 moved into evidence as People's Exhibits 20  
2 through 26.

3 MR. KEITH: I have some questions.

4 VOIR DIRE EXAMINATION BY

5 MR. KEITH:

6 Q. Would you please take a look at People's  
7 Exhibit 22 for identification.

8 A. Yes, sir.

9 Q. What do you believe is depicted in that  
10 picture?

11 A. A tin, like a box with plastic Baggies inside  
12 of it.

13 Q. With regard to the fourth floor apartment,  
14 where do you believe those items are?

15 A. By the -- by a window.

16 Q. Detective, didn't you testify earlier that  
17 there was, I believe you said there was some garbage  
18 bags or something over the windows?

19 A. No, garbage bags like this that you were going  
20 to throw away were by the entrance to the apartment.

21 Q. Did you say garbage bags were by the entrance  
22 to the apartment? The garbage bags were in the closet?

23 A. No, the garbage bags were by the entrance  
24 inside the apartment.

25 THE COURT: Was something covering the

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HERNANDEZ - VOIR DIRE - DEFENSE

1 window?

2 THE WITNESS: Yes, sir.

3 THE COURT: What?

4 THE WITNESS: A shade.

5 Q. In the pictures were Venetian blinds?

6 A. Yes, sir.

7 Q. Were there Venetian blinds in the fourth floor  
8 apartment?

9 A. Yes, sir.

10 Q. That's your recollection?

11 A. Yes, sir. Underneath the Venetian blinds was  
12 a black garbage bag.

13 THE COURT: Does that mean underneath as  
14 in below or underneath as in behind the blinds  
15 closer to the glass?

16 THE WITNESS: Close to the glass.

17 THE COURT: Blinds, bag and pane of  
18 glass?

19 THE WITNESS: That's correct.

20 THE COURT: There was a garbage bag  
21 against the window?

22 THE WITNESS: Yes.

23 THE COURT: And at least one other  
24 garbage bag someplace in the apartment. You are  
25 testifying that it was by the entrance to that

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HERNANDEZ - VOIR DIRE - DEFENSE

1 apartment?

2 THE WITNESS: Garbage bags yes, sir, by  
3 the entrance.

4 THE COURT: Were they attached to  
5 something or on the floor?

6 THE WITNESS: The garbage bag were full  
7 of garbage on the floor.

8 THE COURT: Go ahead.

9 MR. KEITH: May I have the series of  
10 photographs marked --

11 THE COURT: This is on his introduction,  
12 supposedly, 22 through 27.

13 MR. KEITH: Yes, Your Honor. I want to  
14 see if he looks at these photographs whether or  
15 not they refresh his recollection.

16 THE COURT: I sense this will move it  
17 along. May not fit precisely within the evidence.  
18 Show them and ask the questions.

19 MR. BERLAND: I may need to voir dire on  
20 those. I perceive some issues.

21 THE COURT: Let's wait until he offers  
22 them.

23 MR. KEITH: May they be marked  
24 Defendant's B and C for identification.

25 May I approach the witness, Your Honor?

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HERNANDEZ - VOIR DIRE - DEFENSE

1 THE COURT: Sure.

2 Q. With regard to the item labeled B, taking a  
3 look at that item, what do you see?

4 A. That's the second floor.

5 THE COURT: Sustained. Ask him to  
6 familiarize himself then a question. Since it's  
7 not in evidence, I will not have him describe it  
8 just yet, if at all. This is somehow helping if  
9 I'm going to admit 20 through 27. He looked at it  
10 and has a mental picture of the picture.

11 Q. With regard to the item labeled B for  
12 identification, looking at that item, do those  
13 photographs fairly reflect the physical layout of the  
14 second floor apartment at 451 Lenox Avenue?

15 MR. BERLAND: On what date?

16 THE COURT: We're not doing the second  
17 floor because he's trying to do the fourth floor.

18 MR. KEITH: I believe he misidentified  
19 the other photograph. I think if he looks at the  
20 photograph, he can see how.

21 THE COURT: Walk over.

22 MR. BERLAND: May I, Your Honor.

23 THE COURT: Come on up. I heard, "I took  
24 the pictures." 20 through 27 are admitted.

25 (People's Exhibits 20 through 27 were

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HERNANDEZ - DIRECT - PEOPLE

1 received in evidence.)

2 MR. KEITH: I was talking about 22.

3 THE COURT: What's next?

4 CONTINUED DIRECT EXAMINATION BY

5 MR. BERLAND:

6 Q. Detective Hernandez, based on your training  
7 and experience in warrant executions, can you please  
8 explain to the jury the relationship between a room  
9 that is being used to sell narcotics and a room being  
10 used to package narcotics?

11 MR. KEITH: Objection.

12 A. Yes.

13 THE COURT: You can ask him generally  
14 whether every function related to the sale must  
15 happen in one place, but you can't relate it to  
16 this event. You have to leave it up to the jury  
17 to make whatever ultimate decision you will ask  
18 him to make. Go ahead.

19 Q. Generally speaking, is it common for drugs to  
20 be processed in and packaged in the same location  
21 they're sold from?

22 MR. KEITH: Objection.

23 THE COURT: Overruled.

24 A. Generally speaking, no, it would be in  
25 separate locations.

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HERNANDEZ - DIRECT - PEOPLE

1 Q. Why is that?

2 A. You don't want the bulk of your merchandise  
3 that has a high value to be in the same place that you  
4 have clientele coming into and alerting them to the  
5 fact that the product is there, which then makes you  
6 victim to robberies and anyone coming in there trying  
7 to remove the property and the drugs from you without  
8 paying.

9 Q. I think you testified a while back that some  
10 money was recovered on the defendant, Edward Green; is  
11 that right?

12 A. Yes, sir.

13 Q. You said 330-something dollars?

14 A. That's correct.

15 Q. Were any tools recovered on the defendant?

16 A. No, sir, not that I recall.

17 Q. Was any identification recovered on the  
18 defendant, if you recall?

19 A. I'm not sure if there was or not. I don't  
20 recall any specified indication, but I don't know. I  
21 can't tell you whether he did or not.

22 Q. Was there anything recovered on the defendant  
23 indicating his employment, if you recall?

24 A. No, sir.

25 Q. Had you ever met Steven Brown prior to

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HERNANDEZ -CROSS - DEFENSE

1 November 1, 2007?

2 A. No, sir.

3 Q. Had you ever met the defendant before  
4 November 1, 2007?

5 A. No, sir.

6 MR. BERLAND: I have nothing further.

7 THE COURT: Mr. Keith.

8 CROSS-EXAMINATION BY

9 MR. KEITH:

10 Q. Good afternoon, Detective Hernandez.

11 A. Good afternoon, sir.

12 Q. How old are you?

13 A. Excuse me?

14 Q. How old are you?

15 A. I'm 42, going on 43.

16 Q. What's your educational background?

17 A. Completed high school, went to college for a  
18 little while before going into the police department,  
19 and currently attempting to obtain my Bachelor's in  
20 criminal justice. Going to school right now.

21 Q. So you are in your second year of college?  
22 How many credits do you have?

23 A. I have about 70.

24 Q. Now, at the time of the execution of the  
25 search warrant, November 1, 2007, you were a member of

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HERNANDEZ -CROSS - DEFENSE

1 the Manhattan North Narcotics?

2 A. That is correct.

3 Q. At the time, how long had you been a member of  
4 Manhattan North Narcotics?

5 A. Since 1993. For over 14 years.

6 Q. On direct, I believe you said you had been  
7 involved in several thousand arrests; is that correct?

8 A. That is correct.

9 Q. Now -- and you've been the assigned officer or  
10 arresting officer approximately 750 times?

11 A. Approximately.

12 Q. And you were not the assigned officer on this  
13 case, were you?

14 A. That is correct, sir.

15 Q. That was Detective Romero?

16 A. That is correct.

17 Q. Now, with regard to your experience as a  
18 witness, with regard to the thousands of cases that  
19 you've been involved in, approximately how many times  
20 have you testified before a Grand Jury, approximately?

21 A. I don't know. Large amount of time,  
22 significant amount of time.

23 Q. Several hundred?

24 A. Maybe about 100 or so. I can't give you a  
25 number on the Grand Jury terms.

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HERNANDEZ -CROSS - DEFENSE

1 Q. Now, with regard to testifying in a pre-trial  
2 hearings or trial hearings where you are cross  
3 examined, how many times have you experienced that?

4 A. A few.

5 THE COURT: Under a dozen?

6 THE WITNESS: Yes, sir, I would think so.

7 Q. In this case, you were part of the team of  
8 officers that were assigned to execute two search  
9 warrants at that building, 451 Lenox Avenue, on  
10 November 1, 2007; is that correct?

11 A. That is correct.

12 Q. And the team broke up into two groups; isn't  
13 that correct?

14 A. There were two separate teams that were  
15 executing on that day.

16 Q. There was a group of officers that went up to  
17 the third floor; is that correct?

18 A. That is correct.

19 Q. And a group of officers that went to the  
20 second floor?

21 A. That is correct.

22 Q. You are part of that second group?

23 A. That is correct.

24 Q. Detective Romero was the supervisor or the  
25 leader of that group?

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HERNANDEZ -CROSS - DEFENSE

1           A. No, supervisors, sergeants, lieutenants and  
2 captains were the leaders of the group. Detective  
3 Romero was the detective, as I say, in charge of any  
4 arrests or of the execution of the search warrants.

5           Q. So, is it fair to say before you guys went to  
6 execute the search warrants that you had at that time,  
7 he had been designated to be the arresting officer? If  
8 there were arrests to be made, Detective Romero would  
9 get credit for the arrests?

10          A. Not that he was assigned. It was that he was  
11 responsible -- he conducted -- he was the one who  
12 conducted the preliminary work that occurred to obtain  
13 search warrants, to execute the search warrants at the  
14 location.

15          Q. Before you went in, you knew Detective Romero  
16 would be the arresting officer if there were arrests  
17 made?

18          A. Yes, sir. They were his warrants. He was the  
19 arresting officer.

20          Q. He would have to then necessarily do the  
21 majority of the paperwork?

22          A. Um, he would be responsible for the majority  
23 of the paperwork or would be the one receiving any  
24 paperwork or any other work done by other members of  
25 the team.

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HERNANDEZ -CROSS - DEFENSE

1 Q. On direct, you described yourself as the  
2 recorder. Explain to the jury what the recorder does.

3 A. A recorder basically assists the person  
4 assigned, the primary investigator in whichever matter  
5 that primary investigator wants. Traditionally a  
6 recorder is a person who can make entries or jot down  
7 notes. Basically what it comes down to in a search  
8 warrant execution team in narcotics is whatever the  
9 arresting officer wants that person to do for him.

10 Q. Now, to prepare yourself for your testimony  
11 today, you reviewed the reports that were prepared by  
12 Detective Romero?

13 A. I reviewed the vouchers.

14 Q. You reviewed the vouchers?

15 A. Yes, sir.

16 Q. You didn't read over his arrest report or any  
17 other police reports he filled out?

18 A. No, sir.

19 Q. And did you read over the testimony you gave  
20 before the Grand Jury?

21 A. Yes, sir.

22 Q. Did you read over his testimony?

23 A. No, sir.

24 Q. You, of course, had conversations with  
25 ADA Berland?

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HERNANDEZ -CROSS - DEFENSE

1 A. I had conversations with the assistant. I  
2 wouldn't say they were numerous.

3 Q. Since November 1, 2007, approximately how many  
4 search warrants have you participated in, the execution  
5 of a search warrant?

6 A. I wish I could say many, but there were few  
7 because I was transferred in February 2008 to the Drug  
8 Enforcement Task Force.

9 Q. So approximately how many?

10 A. Maybe four, five, maybe, at that.

11 Q. Approximately how many arrests have you been  
12 involved in since November 2007, approximately?

13 A. I don't know, maybe 20, 25.

14 Q. With regard to the money recovered from  
15 Mr. Green, do you recall that money being found in a  
16 wallet in his pocket?

17 A. The money was found in his pants pocket, but I  
18 wasn't the individual who recovered it.

19 Q. Are you saying you do not recall the wallet?

20 A. I don't recall the money was recovered from  
21 the wallet. I'm not too sure if he had one or not.

22 Q. Do you recall Mr. Green having a New York  
23 State identification card?

24 A. I don't recall whether he did or not.

25 Q. Do you recall him having a South Carolina

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HERNANDEZ -CROSS - DEFENSE

1 driver's license?

2 A. I wouldn't recall if he did or not.

3 Q. Is it fair to say that there was no  
4 documentation indicating that Mr. Green lived at 451  
5 Lenox Avenue?

6 A. I can't answer that question 'cause I did not  
7 review any documentation that was on him.

8 Q. And you didn't look at any of the paperwork  
9 prepared by Detective Romero?

10 A. In regards to the arrests, that was  
11 Detective Romero's responsibility.

12 Q. I am saying, in your preparation, you didn't  
13 look at any of Detective Romero's paperwork?

14 A. I would have looked at the on-line booking  
15 sheets on the date of the arrest.

16 Q. On the on-line booking sheet, do you recall  
17 what Mr. Green's address was?

18 A. I wouldn't recall. I would have to look at the  
19 sheets.

20 MR. BERLAND: I'd object to this anyway,  
21 Your Honor.

22 THE COURT: Object to what?

23 MR. BERLAND: He is about to show him the  
24 on-line booking sheets.

25 MR. KEITH: He said he looked at it.

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HERNANDEZ -CROSS - DEFENSE

1 THE COURT: He really says he doesn't  
2 have one, but you go right ahead and show it to  
3 him.

4 MR. KEITH: Showing him Defendant's D.

5 THE COURT: Somebody else's on-line  
6 booking sheet prepared regarding the arrest of  
7 Mr. Green. Okay.

8 Q. After looking at that document, is your  
9 recollection refreshed with regard to Mr. Green's  
10 address?

11 MR. BERLAND: Without reading from it.

12 THE COURT: And more specifically it  
13 would be, if anything, whether Mr. Green said it  
14 was his address rather than some independent  
15 documentation of the address.

16 THE WITNESS: I don't recall what he gave  
17 to Detective Romero.

18 THE COURT: Sustained. We'll have to  
19 wait for Detective Romero. What's next?

20 Q. In order to get a search warrant, generally  
21 speaking, what type of information has to be given to  
22 the judge?

23 A. I guess the circumstances and what we believe  
24 the probable cause is for us to believe that a crime is  
25 being committed or has been committed at a location.

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HERNANDEZ -CROSS - DEFENSE

1 Q. For example in this case some of the  
2 information given to the judge to get the first set of  
3 warrants was that someone had gone to that location and  
4 purchased narcotics?

5 MR. BERLAND: Can we approach?

6 THE COURT: No. So far I don't see a need  
7 to. Somebody went to that building and bought  
8 drugs I don't think is a reason we have to  
9 approach. Overruled.

10 Q. Generally speaking, is that the type of  
11 information that was made available to a judge to sign  
12 the search warrant for the execution of the search  
13 warrants at 451 Lenox Avenue?

14 THE COURT: When you say "generally,"  
15 that doesn't help. There is a standard.

16 You are absolutely not prepared nor asked  
17 to make any decision about the procedures used in  
18 filing a warrant or even executing it. The topic  
19 of generally how one gets a warrant is okay, but I  
20 don't want anybody to think the wrong thing. I  
21 will not instruct them much about warrants. You  
22 can try to get more information of the nature that  
23 you are interested in, but I may pepper you with  
24 help periodically.

25 Go ahead.

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HERNANDEZ -CROSS - DEFENSE

1 Q. With regards to the investigation at 451 Lenox  
2 Avenue, Mr. Green wasn't the subject of that  
3 investigation; is that fair to say?

4 THE COURT: All right, let's do it this  
5 way. There is a search warrant and sometimes there  
6 is a person described or several people described,  
7 generally you don't know somebody's name. Often  
8 times, one person's description is contained in  
9 the search warrant. Is that usually the  
10 situation?

11 THE WITNESS: That is correct.

12 THE COURT: As best you can glean from  
13 the description, if any, contained in the search  
14 warrant and Mr. Green's description, was he the  
15 person or persons specifically described in there?

16 A. What specifically was described in the search  
17 warrant, I don't recall, but there were descriptions of  
18 individuals that were put into the search warrants.

19 Q. Individuals with an S?

20 A. I believe so.

21 THE COURT: This is fine, but keep in  
22 mind that you do not have to decide anything about  
23 the execution of it and the fact that somebody is  
24 or isn't named, labeled, described in the search  
25 warrant doesn't have anything to do with regard to

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HERNANDEZ -CROSS - DEFENSE

1 the fact that the police are allowed to enter into  
2 and search the place described. If during your  
3 deliberations you need me to answer some more  
4 specific question, you can ask me.

5 Continue, Mr. Keith.

6 Q. Yes or no, was Mr. Green the target of the  
7 search warrant?

8 MR. BERLAND: It was asked and answered.

9 MR. KEITH: It wasn't.

10 Q. If he was, he was. If he wasn't, he wasn't.

11 MR. BERLAND: Can you please --

12 THE COURT: I'm willing to say that he's  
13 not the person specifically described in the  
14 warrant, but that has limited applicability for  
15 you folks in this case. We'll move on. That's in  
16 the record now.

17 Q. Now, when you testified before the Grand Jury,  
18 that was testimony that was under oath?

19 A. That is correct.

20 Q. You told the truth before the Grand Jury;  
21 isn't that correct?

22 A. Yes, sir.

23 Q. When you testified before the Grand Jury, you  
24 didn't testify at all about the second floor; isn't  
25 that correct?

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HERNANDEZ -CROSS - DEFENSE

1 A. I think that is correct.

2 Q. I want to direct your attention back to that  
3 day. You were part of the team that searched the  
4 second floor or the group of officers that searched the  
5 second floor?

6 A. I was part of the team that entered the second  
7 floor and did look around the second floor, yes, sir.

8 Q. Before I ask more questions about that, with  
9 regard to the first team that went in, would it be fair  
10 to say that they used a battering ram to get through  
11 that door to get to the third floor; isn't that  
12 correct?

13 A. Yes, sir.

14 Q. Now, going back to the second floor. There  
15 came a time during the execution of the search warrant  
16 on the second floor that some keys were recovered;  
17 isn't that correct?

18 A. Yes.

19 Q. Did you see the recovery of those keys?

20 A. Yes, when Detective Romero recovered them,  
21 yes, sir.

22 Q. Where did -- specifically where did Detective  
23 Romero recover those keys?

24 A. If I remember correctly, they were on the  
25 waistband of Mr. Smith.

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HERNANDEZ -CROSS - DEFENSE

1 Q. Would it refresh your recollection any if I  
2 were to say to you that the keys were recovered from a  
3 jacket, from the pocket of a jacket?

4 A. You can say, but I remember Detective Romero  
5 having keys in his hands when he was searching  
6 Mr. Smith -- Mr. Brown, Mr. Brown, Steven Brown.

7 Q. You don't recall there being a jacket on a  
8 chair?

9 A. I don't recall if there was a jacket on the  
10 chair or not.

11 Q. Isn't it correct that after those keys were  
12 recovered, whether from a jacket or from Mr. Brown's  
13 waistband, officers then went to check and see where  
14 those keys were to be utilized; isn't that fair to say?

15 A. I remember I went upstairs with Detective  
16 Romero and went and checked what we were being told  
17 about regarding the floors, and there were several SROs  
18 on the third and fourth floors --

19 Q. You mean individual apartments?

20 A. Yes, sir, and that we return back, and we  
21 spoke to the supervisor about it and we went upstairs  
22 because we were told that there was a loud slamming  
23 above the third floor and then we received radio  
24 communication regarding the fact that the surveillance  
25 camera and a wire leading up to the fourth floor

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HERNANDEZ -CROSS - DEFENSE

1 window, and with that, Detective Romero went up to the  
2 fourth floor, I accompanied him, as well as several  
3 supervisors and we went to a corner apartment and he  
4 tried the key there.

5 Q. Before going up to the fourth floor, do you  
6 recall officers going to each apartment on the third  
7 floor and trying the keys?

8 A. That, I don't recall. I recall there being  
9 several officers throughout the building since they  
10 heard a slamming above the third floor. When they  
11 reached the third floor door landing and we were trying  
12 to make a determination where the noise was coming from  
13 and what was the layout of those floors.

14 Q. I guess you don't recall on the third floor  
15 that some doors were knocked on?

16 THE COURT: It really doesn't legally  
17 matter for the jurors what they did either on the  
18 third or the fourth floor for that matter.

19 MR. KEITH: Well, it does with regard to  
20 his recollection, Your Honor.

21 THE COURT: No, it doesn't. It's not much  
22 difference than if he doesn't remember what he  
23 wore that day. You are going to focus on the  
24 apartment or any supposed connection with Mr.  
25 Green, and that's our trial.

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HERNANDEZ -CROSS - DEFENSE

1 Q. Do you recall seeing any other civilians in  
2 the building other than Mr. Green and Mr. Brown?

3 A. I think on the third floor there was a person  
4 who was coming out of one of the rooms but went back in  
5 and saw the police in the building.

6 Q. Is it your recollection that there was no  
7 follow-up investigation by any of the officers when  
8 that happened?

9 A. No, because the person came out. The person  
10 went back in, appeared to be startled, when the person  
11 saw us on the floor.

12 Q. So when a person came out, he was startled and  
13 goes back into his apartment. You are saying during  
14 the execution of the warrants, the officers said okay  
15 and moved on?

16 A. Because -- yes, that was before we had  
17 discovered the information about the fourth floor  
18 apartment.

19 Q. Now, with regard to the fourth floor, you  
20 testified about some wires. These wires were on the  
21 outside of the building, inside of the building? Where  
22 were these wires?

23 A. Wires were on the outside but had came into  
24 the window that was in that fourth floor apartment.

25 Q. Now, it's correct that 451 Lenox Avenue, the

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HERNANDEZ -CROSS - DEFENSE

1 front of the building faces Lenox Avenue; is that  
2 correct?

3 A. That is correct, sir.

4 Q. And on the street level, there's a laundromat;  
5 is that correct?

6 A. That is correct.

7 Q. A four-story building?

8 A. That is correct.

9 Q. The apartment that Mr. Green was found in, you  
10 wouldn't be able see any windows to that apartment from  
11 looking at the front of the building from Lenox Avenue;  
12 isn't that correct?

13 A. That is correct.

14 Q. His apartment was in the back; is that  
15 correct?

16 A. Yes, sir, his apartment was in the back.

17 Q. So --

18 A. Or I should say the apartment he was in was in  
19 the back.

20 MR. KEITH: I'd like to mark this  
21 Defendant's Exhibit I for identification.

22 THE COURT: We'll call this a photograph.  
23 (Defendant's Exhibit I was marked for  
24 identification.)

25 Q. I ask you to take a look at what has been

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HERNANDEZ -VOIR DIRE - PEOPLE

1 marked I for identification. Do you recognize that?

2 A. Yes, sir. It appears to be 451 Lenox Avenue.

3 Q. Looking at that photograph, does it appear to  
4 be a fair representation of 451 Lenox Avenue as it  
5 looked on November 1, 2007?

6 A. I could say that the building itself and the  
7 laundromat canopy appear to be consistent with what I  
8 remember from November 1, 2007.

9 MR. KEITH: I offer that as Defendant's I  
10 in evidence.

11 MR. BERLAND: Can I see it briefly,  
12 please? May I voir dire?

13 THE COURT: Sure.

14 VOIR DIRE EXAMINATION BY

15 MR. BERLAND:

16 Q. Detective, on that picture it appears that  
17 there are numerous wires going into a variety of  
18 different windows. Do you see that?

19 A. Yes, sir.

20 Q. Is that how you recall the exterior of the  
21 building looking on November 1, 2007?

22 A. I don't recall all the wires that appear to be  
23 hanging over the roof and coming down, but I could  
24 recall the building and the canopy on the laundromat as  
25 I had indicated.

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HERNANDEZ -CROSS - DEFENSE

1 Q. You don't know when that picture was taken, do  
2 you?

3 A. No, no.

4 Q. You didn't take the pictures?

5 A. No.

6 Q. The wires weren't there that day?

7 A. Not that I recall.

8 MR. BERLAND: I object.

9 THE COURT: The picture is admissible.  
10 It shows the exterior of the building, quite a  
11 clear picture, shows the laundromat. It does show  
12 the southwest apartment that seems to be the  
13 subject apartment. It's admitted for any use the  
14 jury wants to make of it.

15 (Defendant's Exhibit I was received in  
16 evidence.)

17 CONTINUED CROSS-EXAMINATION BY

18 MR. KEITH:

19 Q. Taking a look at Exhibit E, with regard to the  
20 wire you saw going to the southwest apartment on the  
21 outside of the building, looking at that photograph,  
22 can you just show us where that wire was back on  
23 November 1, 2007.

24 A. No, sir.

25 THE COURT: I must not have been paying

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HERNANDEZ -CROSS - DEFENSE

1 attention to my own question. I know you said the  
2 southwest apartment, the apartment which we seem  
3 to be having the trial in that picture and he said  
4 no. Is that still the situation?

5 THE WITNESS: That is still the  
6 situation.

7 THE COURT: We're asking whether a wire  
8 that may or may not have been in the window that  
9 isn't in the picture can be seen.

10 MR. KEITH: Your Honor, he said he saw it  
11 on the outside of the building. I'm asking if  
12 that picture could help us to see what he saw.

13 THE COURT: The objection to that  
14 question is sustained. What's the next question?

15 Q. These were previously marked as Defendant's  
16 Exhibits C and D for identification -- B and C for  
17 identification.

18 THE COURT: Your question is what? For  
19 the record, B and C, each are some sort of  
20 photographic print paper with four separate  
21 photographs on each.

22 Go ahead.

23 Q. Looking first at what has been marked B for  
24 identification, looking at those photographs, do they  
25 reflect the physical layout of the second floor room as

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HERNANDEZ -CROSS - DEFENSE

1 it appeared on November 1, 2007?

2 A. It's consistent with the layout.

3 Q. Looking at Defendant's C for identification,  
4 does that -- do those photographs give a fair  
5 representation of the physical layout of the fourth  
6 floor apartment as it looked on November 1, 2007?

7 A. At least from two of the photos I can say it  
8 looks like it. Two of them, I can't. I have no idea  
9 what this belongs to.

10 THE COURT: The upper left and lower  
11 right seem to be consistent with the layout of the  
12 apartment on the fourth floor. The lower left and  
13 upper right, he cannot tell where they are and  
14 what they are.

15 "If anything," you are saying for the  
16 benefit of the jury. You have to say it louder.  
17 If it was to help the lawyers, that tone of voice  
18 was fine.

19 MR. KEITH: Your Honor, I offer  
20 Defendant's Exhibits B and C into evidence.

21 MR. BERLAND: All the pictures or the one  
22 he recognizes?

23 MR. KEITH: Except the one picture he  
24 doesn't recognize, which is on Defendant's C in  
25 the upper right.

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HERNANDEZ -CROSS - DEFENSE

1 MR. BERLAND: I believe there were two  
2 pictures the defendant did not recognize.

3 THE COURT: You said something about the  
4 other one. The one that you are staring at now,  
5 does that relate to the fourth floor as you  
6 recall?

7 THE WITNESS: I can't say hundred  
8 percent, Your Honor, because the door is not open  
9 and I cannot see inside. They look like they're  
10 all similar.

11 THE COURT: Those three are admitted as  
12 are four on Exhibit B. One is not.

13 (Defendant's Exhibit B was received in  
14 evidence.)

15 Q. I apologize for jumping around. Directing your  
16 attention back to the start of the execution of the  
17 search warrants, I believe you indicated that to the  
18 right of the laundromat there is the door to 451 Lenox  
19 Avenue?

20 A. To the residences, yes, sir.

21 Q. And that door, I believe you indicated is a  
22 door that's locked and has a buzzer system, people  
23 usually buzzed in?

24 A. That is correct.

25 Q. With regard to the execution of the warrants,

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HERNANDEZ -CROSS - DEFENSE

1 do you know how the officers got into the building that  
2 day?

3 A. Yes, sir. A walk-on was sent to the building  
4 to stand in the doorway milling around and to attempt  
5 to gain the door open either by hitting the buzzer or  
6 waiting for somebody to come out.

7 Q. When you say a walk on to?

8 A. Another detective.

9 Q. Dressed in plainclothes, milled around the  
10 door and when someone came out, he was able to gain  
11 access to the building?

12 A. That is correct, sir.

13 Q. Detective Hernandez, in the second floor  
14 apartment, I believe you indicated that you saw some  
15 empty bags -- empty Ziploc bags that had the Red Apple  
16 stamp on them; is that correct?

17 A. Yes, sir.

18 Q. And it's correct that you saw the Red Apple  
19 stamp in other cases involving other search warrants at  
20 other locations?

21 A. That is correct.

22 Q. Now, with regard to cocaine, based on your  
23 training and experience, would you agree with me that  
24 the cocaine that's sold on the street, that it's rare  
25 that cocaine is pure, hundred percent cocaine; is that

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1 correct?

2 A. That is correct.

3 Q. Based on your training and experience, the  
4 street level cocaine, the stuff sold on the street,  
5 what percentage is cocaine and what percentage is  
6 something else?

7 A. Depends on the seller. Depends on how the  
8 seller cuts it. It could be anywhere from 30 to 40  
9 to 50 to 60, in that general range, 70. Somewhere  
10 between 30 and 70, usually. Depending on the location  
11 and what the clientele from that particular area or  
12 that particular seller expects.

13 Q. Cocaine is cut with various substances. Are  
14 you familiar with a substance called mannitol?

15 A. Yes, sir.

16 Q. What is mannitol?

17 A. It's basically look like a bar of soap, but  
18 just like other cutting agents. It's a crystalline  
19 substance that's mixed up with cocaine basically for  
20 that same purpose, like any other cutting agent to  
21 lower the purity, to increase the amount to bind the  
22 cocaine.

23 Q. Other agent used to mix cocaine for street  
24 sales is lactose; is that correct?

25 A. That is correct, sir.

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HERNANDEZ -CROSS - DEFENSE

1 Q. Both mannitol and lactose and the other  
2 substances used to mix cocaine, they look a lot like  
3 cocaine, would that be fair to say?

4 A. Some of them do. By the consistency and by the  
5 smell and by the odor, you can put out by them, you can  
6 tell the difference, but they basically use a product  
7 that's basically the same type of coloring or try close  
8 to consistency, so that it makes up well and doesn't  
9 make the drug look bad.

10 Q. So, in terms of being precise and accurate,  
11 when you testified that you see cocaine residue, in  
12 fact, you're testifying that you see a white powdery  
13 substance at different locations, isn't that fair to  
14 say?

15 A. A white powdery substance that was consistent  
16 with cocaine, yes, sir.

17 Q. And it's also consistent with mannitol or  
18 lactose or any other substances that you testified to?

19 A. It can be.

20 Q. I mean, you, yourself, didn't test any of the  
21 stuff?

22 A. No, sir, but I also didn't find any quantities  
23 of those in those apartments, either.

24 THE COURT: Who wants to be the  
25 designated elboweer? Ah, okay, there you go.

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HERNANDEZ -CROSS - DEFENSE

1 You're going to ask for a bathroom break. Not a  
2 surprise. Do we have to stop right now, unless  
3 profound embarrassment will occur? How about five  
4 minutes and we'll be finished for the day.

5 Q. I want to direct your attention now to the  
6 fourth floor?

7 A. Yes, sir.

8 Q. It's true that when you guys entered into the  
9 apartment, you saw some things that led you to  
10 believe -- withdrawn.

11 I believe you testified that the closet  
12 door was slightly open; is that correct?

13 A. Yes, sir.

14 Q. It was closed and you guys went in and opened  
15 it up; is that correct?

16 A. It wasn't locked, but it was slightly open,  
17 but we had to pull it open. Detective Romero had to  
18 pull it open to get it completely open.

19 Q. This, of course, was done before you guys  
20 secured the search warrant?

21 A. After, yes, sir.

22 Q. And when you found the safes, you were  
23 particularly curious to see what was in safes and you  
24 got your sledgehammers out; isn't that fair to say?

25 A. Not at that time.

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HERNANDEZ -CROSS - DEFENSE

1 THE COURT: That was a two-part question.

2 I wouldn't be surprised they were particularly  
3 curious immediately, but the question then shifts  
4 potentially to different events. It's difficult  
5 to combine two things in the same sentence and  
6 expect one answer. If you get my drift.

7 Q. Detective Hernandez, I want you to think back  
8 to what you recall, what your observations were back on  
9 November 1, 2007.

10 A. Yes, sir.

11 Q. Now, your recollection is very clear that it  
12 was Detective Romero that used the key to get into the  
13 fourth floor apartment?

14 A. I'm pretty sure it was, sir.

15 Q. Pretty sure. That's more than 50 percent?

16 A. Yes.

17 Q. More than 75 percent?

18 A. Yes, I think so, sir.

19 Q. So you're pretty sure that it was Detective  
20 Romero that put the key into the lock, turned the lock  
21 and then pulled the key back out, is that what  
22 happened, initially?

23 A. Yes.

24 Q. I believe you testified that your recollection  
25 is that instead of going right in, that you guys went

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HERNANDEZ -CROSS - DEFENSE

1 and got a police shield?

2 A. Yes, he did.

3 Q. What else did you get?

4 A. A flashlight, or he may have had it on him  
5 already.

6 THE COURT: Finish up the topic.

7 Go ahead.

8 Q. The plastic shield was brought with a group  
9 to execute the search warrant in the first place; is  
10 that correct?

11 A. Yes, sir.

12 Q. So he gets the plastic shield. Is it  
13 Detective Romero using the shield or someone else?

14 A. Yes, sir.

15 Q. It's Detective Romero?

16 A. Yes.

17 Q. And he uses the key to open the door again and  
18 with the shield in front of him, he goes back in; is  
19 that correct?

20 A. Unlocks it, pulls the key out, and when we're  
21 all ready and the supervisors tell him to go ahead, he  
22 pushes the door open.

23 Q. He pushed the door open, the room is, as you  
24 said, very dark, is that your testimony?

25 A. That is correct.

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HERNANDEZ -CROSS - DEFENSE

1 Q. But he has a flashlight in his hand, so he's  
2 shining the flashlight around, he sees Mr. Green?

3 A. That is correct.

4 Q. Mr. Green is sitting on the couch?

5 A. That's correct.

6 Q. Of course he's grabbed right way and secured?

7 A. Yes, after he was requested a couple of times  
8 to get down.

9 Q. So he was told to get down on the floor. He  
10 did that?

11 A. No, he remained sitting in the chair, on the  
12 couch.

13 Q. He didn't say a word. So the officers yelled  
14 at him, get down, get down, he sat there for a moment  
15 and then got down on the floor?

16 A. No, sir, he just stayed there.

17 Q. He was put on the floor?

18 A. No, he stayed there and he wouldn't get up  
19 from the couch, so, myself and Detective Romero while  
20 the other members of the team are also coming in, grab  
21 Green and stood him up and secured him.

22 Q. Handcuffed him?

23 A. That is correct.

24 Q. Behind his back?

25 A. That's correct.

YVETTE PACHECO SENIOR COURT REPORTER



HERNANDEZ -CROSS - DEFENSE

1 Q. Put him down on the floor?

2 A. I don't think we put him down on the floor. I  
3 think we put handcuffs on him.

4 Q. Okay, I can't --

5 MR. BERLAND: Objection. He said he  
6 doesn't think so.

7 MR. KEITH: I mumbled.

8 THE COURT: None of this matters.

9 Q. Detective Hernandez, is it correct that after  
10 Mr. Green is handcuffed, he's taken out of the  
11 apartment; is that correct?

12 A. Yeah, shortly thereafter.

13 Q. Now, in the apartment, is it your recollection  
14 that there was a light switch that was turned or was it  
15 a pull string? How was the room illuminated?

16 A. I don't remember, but I do remember we had  
17 light turned on in the apartment, whether a switch or  
18 pull switch, the lights went on.

19 Q. On direct you said it was a switch, but you  
20 are not sure?

21 A. Could have been a pull switch or a regular  
22 light switch on the wall.

23 Q. Do you recall that a bulb was simply inserted  
24 and turned?

25 A. I don't know if a bulb was simply inserted and

YVETTE PACHECO SENIOR COURT REPORTER

HERNANDEZ -CROSS - DEFENSE

1 turned. I think the lights were there already. We just  
2 turned them on.

3 Q. You just turned the bulb; isn't that correct?

4 A. I don't know about turning the bulb. I think  
5 the light was turned on.

6 Q. Before going into the closet, opening the  
7 closet door and going in the closet, would it be fair  
8 to say that you saw the table with the glass top; is  
9 that correct, that was one of the things you saw?

10 A. It was one of the things we quickly saw.

11 Q. You saw that table --

12 A. Quickly saw pieces of furniture --

13 THE COURT: She's really good and even if  
14 it was the beginning of the day, she couldn't take  
15 two people talking at the same time. At the end of  
16 the day, regardless of her competency, she cannot  
17 take two people at the same time.

18 Q. You saw a table with some white powdery  
19 substance on it, residue?

20 A. Eventually, yes, sir.

21 Q. And you also saw a digital scale. Where did  
22 you see that scale?

23 A. On the stand, the entertainment shelving that  
24 had the TV and the monitor.

25 Q. Do you recall what color the scale was?

YVETTE PACHECO SENIOR COURT REPORTER

HERNANDEZ -CROSS - DEFENSE

1 A. Yes, black.

2 Q. It was a black scale and on one of the end  
3 table I believe you indicated you saw a closed cigar  
4 box; isn't that correct?

5 A. Yes, sir.

6 Q. I believe you also indicated that you saw one  
7 heat sealer that was on the floor under the glass top  
8 table; is that correct?

9 A. Yes, sir.

10 THE COURT: Can we stop at this juncture?

11 MR. KEITH: Yes, we can.

12 THE COURT: Okay. Tomorrow, I don't need  
13 you until about ten after two. Tomorrow is a day  
14 that we all have our own private memories. I know  
15 you want to leave, and I'll let you leave in a  
16 minute, but either on the way home or when you  
17 come in tomorrow, 111 Centre Street is across the  
18 way. Outside on the side of the building is a  
19 memorial with some pictures and three of the court  
20 officers who were alive and who were up here,  
21 which is a good distance from the World Financial  
22 Center, and they could have stayed here, and they  
23 didn't, and they're dead, and a whole bench of  
24 court officers went down there, because that's  
25 what they felt they should do, even though there

YVETTE PACHECO SENIOR COURT REPORTER

HERNANDEZ -CROSS - DEFENSE

1 was no legal or moral obligation for them to do  
2 it. Three of them died. Go take a look, see who  
3 they were, find out a little about them. So there  
4 is a service and a recognition of that tomorrow,  
5 but that's not the reason that we are going to  
6 start at ten after two. It has to do with  
7 scheduling of this trial. It will not affect the  
8 schedule I've given you. I respect you will be  
9 put in a position to decide the case probably on  
10 Monday. Let's see what we can accomplish tomorrow  
11 afternoon and I might revise the trial schedule.

12 At the end of the trial, each judge gives  
13 you the following admission. Keep an open mind. Do  
14 not discuss the case with people you will spend  
15 time with. Do not read or listen to any account  
16 in media form. I don't think there's publicity  
17 regarding the case. If you think you're being  
18 exposed to something in the media or similar case,  
19 disassociate yourself from it and let me know.  
20 Don't let anybody speak with you or attempt to  
21 influence your judgment in the case. The fact  
22 that I mention it, doesn't mean somebody is going  
23 to attempt to do it in this case and it's what I'm  
24 required to mention to each juror in the case. You  
25 can do whatever you want to do tomorrow. Do not go

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HERNANDEZ -CROSS - DEFENSE

1 to work if you will jeopardize your punctuality  
2 tomorrow. You get full credit for jury service.  
3 Have a nice day.

4 -----  
5 SUPREME COURT OF THE STATE OF NEW YORK  
6 COUNTY OF NEW YORK PART-93

7 THE PEOPLE OF THE STATE OF NEW YORK,

8 -against-

9 TRIAL

10 EDWARD GREEN,

11 Defendant

12 September 11, 2008

13 B E F O R E: HONORABLE E. MCLAUGHLIN, JSC  
14

15 (Appearances as previously mentioned.)  
16 -----

17 THE CLERK: Calling case on trial,

18 Edward Green.

19 MR. BERLAND: Your Honor, I believe that  
20 during the opening, the defense opened the door  
21 and was talking about the introduction of the  
22 keys. Mr. Keith said the evidence will show that  
23 this was not the defendant's home, the evidence  
24 will show that this was not the defendant's  
25 apartment, and that he was merely in the wrong  
place at the wrong time.

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## PROCEEDINGS

1           The defense is trying to attempt to show  
2           that the defendant doesn't have any dominion and  
3           control on the apartment. This is misleading  
4           given the facts we know he had keys on him.

5           I want to hand up case, People V Rojas,  
6           92 New York 32, Court of Appeals case from 2001,  
7           September 12th. This is a case where the door was  
8           open to allow a prior crime which had been  
9           previously excluded the defendant was in state  
10          custody. He attempted to assault an inmate and  
11          put into solitary confinement --

12          THE COURT: I remember it because I had  
13          to do what you are asking me to do.

14          MR. BERLAND: In that case, as you are  
15          aware, the Court allowed testimony as to the  
16          assault on the prior inmate with limited  
17          instruction. The Court allowed that attempted  
18          assault. The trial court permitted the  
19          prosecution to refute defendant as misleading  
20          contentions. I believe that was the case here.

21          The Court went on to say having chosen to  
22          make an opening statement the defense adopted a  
23          single theme and expressed it during the opening.  
24          In that statement, the defense strongly suggested,  
25          if not argued, that the jury should acquit the

## PROCEEDINGS

1 defendant because he had done nothing wrong.

2 I think it is akin to the case and the  
3 door has been opened to the point the jury has  
4 been misled and should hear evidence about the  
5 keys.

6 THE COURT: I will hear what Mr. Keith  
7 has to say. We do not have a printed transcript  
8 of the statement, but I got this little stuff here  
9 that I make. Pretty much that point of the  
10 opening, Mr. Keith said with reference to the  
11 police, they found keys, I believe what he said  
12 was they found keys on or near Mr. Brown and so  
13 thereby got access to the apartment.

14 Think the way to hear it if you are a  
15 juror, that the police got into the apartment by  
16 virtue of keys from Brown, and since Mr. Green had  
17 no keys, he must have been let in by somebody with  
18 the real control over the apartment. So it is more  
19 than just arguable that the jury should understand  
20 about the keys, but go ahead.

21 MR. KEITH: Your Honor, I don't think the  
22 keys should come in. I don't think the door has  
23 been opened. Even with the keys, the apartment is  
24 still not Mr. Green's apartment.

25 THE COURT: Let's not talk about what

## PROCEEDINGS

1 will the record show by the end of the case. As I  
2 understand it, he's not testifying and I  
3 understand pretty much that they do not have, I  
4 don't know, but I don't think they have access to  
5 a document that would be admissible regarding this  
6 person who I think I've heard, if this is the  
7 right case, is in Chicago who might be the real or  
8 fictional owner, lessee of the place.

9 I'd like you to argue what you are going  
10 to say about his being in the apartment in the  
11 absence of a document or a person saying I let him  
12 in. It's in that context clearly you are making  
13 your opening. I need to know what it is I will be  
14 dealing with at the end of the case.

15 MR. KEITH: Well, with regard to him  
16 being in the apartment, I wasn't going to offer  
17 any explanation for him being in the apartment.  
18 That's their burden of proof.

19 THE COURT: That's fine. But what you did  
20 in the opening was contrast to the police finding  
21 keys.

22 MR. KEITH: They found keys in the second  
23 floor.

24 THE COURT: I was here. I've been living  
25 with this thing for as long as you have, perhaps



## PROCEEDINGS

1 even longer. I don't know that they did not mix  
2 Mr. Green up and magically deposit him in the  
3 room. The jury is going to want to know what do  
4 we do with the fact that the Green is in the  
5 apartment and the way the police got in there was  
6 by keys. No damage to the door, so obviously,  
7 Mr. Green got in there by keys also because the  
8 lock that is here is not broken.

9 MR. KEITH: Right.

10 THE COURT: By addressing an issue, not  
11 addressing, you personally, any defense lawyer or  
12 prosecutor, by raising a topic innocently,  
13 craftily, sinisterly or however, everybody's got  
14 to take the consequences, so to speak, as to what  
15 is said because we all know in the criminal case,  
16 since the prosecution can't never appeal, they  
17 don't get a do-over; defense does get a do-over.

18 MR. KEITH: Your Honor, when the keys  
19 were suppressed in this case --

20 THE COURT: Of course, it was --

21 MR. KEITH: Hear me out.

22 THE COURT: I will let you apologize.  
23 For the benefit of the defendant sitting here and  
24 family, who doesn't know what's going on, but  
25 since you are arguing with me, you must be right

## PROCEEDINGS

1 and I'm out of my mind. Virtually all opening the  
2 door cases sanctioned by Court of Appeals allows  
3 suppressed evidence back in the case because of  
4 what happened regarding references to it or  
5 mis-impressions created about. So go ahead.

6 MR. KEITH: Your Honor, as I argued at  
7 the end of the People's opening, without the keys,  
8 the Court of Appeals says that in this instance,  
9 they can never prove dominion and control. But be  
10 that as it may, and there is a Court of Appeals  
11 case right on point and at least a dozen cases  
12 that follow it, but be that as it may, in my  
13 opening, I said what is left in this case is a man  
14 in a room. It's not his home.

15 I did not suggest or open the door with  
16 regard to any keys. I totally disagree with the  
17 prosecutor's argument. The keys were suppressed.  
18 The facts are that the officers got into that  
19 apartment with keys they got from somewhere else,  
20 I don't believe that opens the door. That's what's  
21 left.

22 Without those keys, it's impossible for  
23 the People to prove dominion and control under the  
24 facts of this case. That's what the Court of  
25 Appeals says.

## PROCEEDINGS

1 THE COURT: You keep saying because they  
2 have a problem they should never be allowed to  
3 bring the stuff back in. In two sentences, why do  
4 you think you are allowed to bring keys in?

5 MR. BERLAND: There is a gaping hole left  
6 for the members of the jury. The police got in  
7 through Mr. Brown's key. How did the defendant  
8 get in the apartment? That's one. Even more than  
9 that because Counsel said this isn't his home, his  
10 apartment, merely in the wrong place at the wrong  
11 time, with the two issues coupled together, it's  
12 completely misleading.

13 MR. KEITH: Without the keys that have  
14 been suppressed, what's left?

15 THE COURT: This is what we'll do. We'll  
16 keep going with the testimony. We'll sum up  
17 tomorrow, probably, and tonight you folks will  
18 read many of the "Opening the Door" cases.

19 I have made up my mind, but you will see  
20 that all of them deal with the line that the  
21 defense is allowed, perfectly justifiably, to go  
22 up to and maybe even lean over, and I'm not  
23 suggesting that I decided that you did it, but all  
24 of the cases, it's in the face of the suppressed  
25 evidence, a purposeful misleading of the jury

HERNANDEZ - CONTINUED CROSS - DEFENSE

1 about whether that evidence or circumstances ever  
2 existed.

3 Bring in the jury. Bring back the  
4 witness.

5 COURT OFFICER: Jury entering. Witness  
6 entering.

7 THE COURT: You are still under oath.  
8 Have a seat. I had to try to decide something. I  
9 apologize for keeping you.

10 More keys questions, Mr. Keith?

11 MR. KEITH: Yes, Your Honor.

12 CONTINUED CROSS-EXAMINATION BY

13 MR. KEITH:

14 Q. Good afternoon, Detective.

15 A. Good afternoon, sir.

16 Q. When we stopped yesterday, Detective  
17 Hernandez, I was asking you about the observations you  
18 made when you entered the fourth floor apartment, and I  
19 believe you agreed with me that you saw a table with a  
20 glass top that had a white powdery substance on it, you  
21 described it as cocaine residue?

22 A. That's correct.

23 Q. I believe you also indicated that you saw a  
24 digital scale that also had residue on it; is that  
25 correct?

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HERNANDEZ - CONTINUED CROSS - DEFENSE

1 A. Yes.

2 Q. You also indicated there was a heat sealer on  
3 the floor underneath that table with the glass top; is  
4 that correct?

5 A. Yes.

6 Q. With regard to other items that you saw that  
7 were in plain view, what else is there?

8 A. The boxes of Baggies that were on the mantel  
9 and near the window, a tin that had plastic Baggies in  
10 it, also apple bags in it.

11 Q. I'm sorry a tin that had --

12 A. Empty plastic Baggies, apple bags in them  
13 also.

14 Q. The Baggies you found on the counter like,  
15 those were sandwich bags?

16 A. That's correct.

17 Q. Taking a look at People's Exhibit 21 in  
18 evidence -- before I ask you a question about that, I  
19 am sorry, the Polaroid photographs, those pictures were  
20 taken by you?

21 A. Yes, sir.

22 Q. When were they taken?

23 A. At the apartment on that night.

24 Q. That night after you guys entered with the  
25 shield and subdued and handcuffed Mr. Green, you

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HERNANDEZ - CONTINUED CROSS - DEFENSE

1 brought him out of the apartment; is that correct?

2 A. Shortly thereafter, yes.

3 Q. If I understood you correctly, there came a  
4 point in time where -- withdrawn.

5 While in the apartment, would it be fair  
6 to say that when you saw the door to the closet, you  
7 opened that door?

8 A. Yes.

9 Q. When you saw there were certain items in  
10 there, you saw garbage bags in there?

11 A. No, the garbage bags were on the floor by the  
12 door.

13 Q. By the door to the apartment?

14 A. That is correct.

15 Q. So right by the closet door. The closet door  
16 is right to the left when you enter?

17 THE COURT: Please don't say "right to  
18 the left."

19 Q. Immediately to the left.

20 THE COURT: "Right to the left" confuses  
21 a whole lot of people, but especially me.

22 Q. When you entered the apartment, to the  
23 immediate left was the door to the closet; is that  
24 correct?

25 A. Yes, sir.

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HERNANDEZ - CONTINUED CROSS - DEFENSE

1 Q. Where were the garbage bags?

2 A. Closer to where the couch was, to the entrance  
3 of the apartment.

4 Q. Was it Detective Romero with the shield?

5 A. Yes.

6 Q. When he enters with a shield, basically in  
7 front of him are the garbage bags?

8 A. To the side, by the sofa, by where the sofa is  
9 placed.

10 Q. To Detective Romero's right?

11 A. Right.

12 Q. The sofa is to the right?

13 A. That's correct.

14 Q. Basically right there the garbage bag was  
15 after you entered the apartment?

16 A. Yeah, right near the doorway.

17 Q. The lights are turned on, Mr. Green is taken  
18 out of the apartment, you look through the closet; is  
19 that fair to say?

20 A. I had already looked with Detective Romero in  
21 the closet to make sure that there was no one in the  
22 closet when we first entered the apartment.

23 Q. When you look into the closet, you see the two  
24 safes and what else do you see?

25 A. I see that no one is in there.

YVETTE PACHECO SENIOR COURT REPORTER

HERNANDEZ - CONTINUED CROSS - DEFENSE

1 Q. What do you see in the closet? I know what I  
2 don't see. What do you see?

3 A. I looked to the right, I see an empty area. I  
4 look up and around, I see a little shelving with a box  
5 and to the left is the safes.

6 Q. What did you do next?

7 A. What I did next is at that point, the  
8 apartment was secure.

9 Q. What do you mean by "the apartment was  
10 secure"?

11 A. There was no one else in the apartment, so  
12 we -- basically, we say that the apartment is secure.

13 Q. So what do you do?

14 A. I stand there and I wait to assist  
15 Detective Romero.

16 Q. It's at that point a decision is made that  
17 maybe you need a search warrant to start looking around  
18 in the apartment; is that basically what happens?

19 A. Shortly thereafter.

20 Q. What do you mean by "shortly thereafter"?

21 A. When Detective Romero approaches Mr. Green and  
22 starts processing Mr. Green.

23 Q. What do you mean by "processing Mr. Green"?

24 A. Obtaining pedigree information from him before  
25 he's taken out of the apartment.

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HERNANDEZ - CONTINUED CROSS - DEFENSE

1 Q. How does he go about obtaining pedigree  
2 information?

3 A. Asking him his information.

4 Q. Did you hear that conversation?

5 A. I knew he was asking him for pedigree  
6 information, but I didn't pay too much attention to it  
7 because the supervisor was there and I was busy talking  
8 to the supervisor while keeping an eye on  
9 Detective Romero.

10 Q. Did you see when Mr. Green's wallet was taken  
11 from him?

12 A. No, sir.

13 Q. What, if anything, do you recall hearing about  
14 the pedigree information?

15 A. I think I remember him asking his name, and,  
16 at that point, I was engaged in a conversation with the  
17 supervisor.

18 MR. KEITH: May we approach?

19 THE COURT: Yes.

20 (Whereupon, a sidebar conference was held  
21 on the record out of the hearing of the jury.)

22 MR. KEITH: Can I ask him if they asked  
23 Mr. Green if they lived there? Can I ask him if  
24 it was determined where Mr. Green lived?

25 THE COURT: What do you want to say?

YVETTE PACHECO SENIOR COURT REPORTER

HERNANDEZ - CONTINUED CROSS - DEFENSE

1 MR. BERLAND: If he asks him that, can I  
2 follow up to say do you know if he worked there?  
3 We know he said he worked in the building.

4 MR. KEITH: I don't know if he said it to  
5 him at that time.

6 MR. BERLAND: I know he said it to  
7 Detective Romero.

8 MR. KEITH: That's the first time I'm  
9 hearing that.

10 MR. BERLAND: He wants to ask the  
11 question.

12 MR. KEITH: We had statement notice.  
13 There was a big issue about Huntley. That was the  
14 first time that came up. That would have come up  
15 with regard to the Huntley issue.

16 THE COURT: I don't know if it would  
17 have.

18 MR. KEITH: It would have.

19 THE COURT: Both sides could have decided  
20 pedigree never is the subject of Miranda, Huntley  
21 or inquiry and just pedigree may well have gone  
22 beyond anybody's thought process. What would be  
23 the relevance of what he said, if it's not for the  
24 truth of the matter?

25 MR. KEITH: Not living there?

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HERNANDEZ - CONTINUED CROSS - DEFENSE

1 THE COURT: Clearly it sounds to me like  
2 the only reason to bring this is in is if his  
3 statement is truthful. If that's the case, it's  
4 excluded because it's hearsay and the only way it  
5 can get in is if he testifies.

6 MR. KEITH: The truth of the matter, in  
7 his wallet there was his New York State ID with  
8 his Bronx address. That was taken from Mr. Green  
9 and ultimately returned to his family. That's  
10 where his money was.

11 THE COURT: But that basically begs the  
12 question of whether that's actually where he  
13 lived. If he wants to get on the stand and say I  
14 lived in the Bronx, he can do that, but then he's  
15 subjected to how did you get here.

16 The answer to your question is you cannot  
17 ask the witness what your client said or didn't  
18 say about where he lived because in this instance,  
19 it seems to me the only point in eliciting that if  
20 the answer was true, and so much centers about  
21 this place and his being there, that he should be  
22 testifying regarding it and subject to  
23 cross-examination.

24 MR. KEITH: That shifts the burden.

25 THE COURT: Then make the seventh issue

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HERNANDEZ - CONTINUED CROSS - DEFENSE

1 on appeal. That's the present ruling.

2 MR. KEITH: So I can't ask him what  
3 the --

4 THE COURT: You have a whole bunch of  
5 family people who if you want to put one of them  
6 on to say I retrieved from the police department  
7 this wallet which was this identification and  
8 limit it to that, I suppose you can do that, but  
9 you cannot do it through what Mr. Green after he  
10 is arrested, pardon me, for the third or fourth  
11 time, second or fourth time for drugs in New York  
12 State, what he says usually --

13 MR. KEITH: I don't think Mr. Green said  
14 anything. I think they got information off the ID  
15 He's 58 years old. He's been around the  
16 block. He's not going to say anything.

17 THE COURT: If you cannot get it through  
18 one of the officers, it is the first time in the  
19 history that something you are certain about what  
20 happens doesn't get into the record because you  
21 can't get somebody to admit it. What am I  
22 supposed to do about it? I've been in this  
23 situation and you've been in that situation.

24 MR. KEITH: The bottom line is I can't  
25 ask him whether or not in this conversation he

YVETTE PACHECO SENIOR COURT REPORTER

HERNANDEZ - CONTINUED CROSS - DEFENSE

1 overhears about pedigree, whether it was  
2 determined where Mr. Green lives.

3 THE COURT: Yes, because it wasn't  
4 determined where he lives. We're -- the answer is  
5 you can't ask it.

6 (Whereupon, the sidebar conference  
7 concluded and the proceedings continued in open court  
8 as follows:)

9 THE COURT: Go ahead.

10 Q. So Detective Hernandez, after dealing with  
11 Mr. Green, then Detective Romero leaves to go and get a  
12 warrant. Is that what happens next?

13 A. Sometime after that, yes.

14 Q. How long after that?

15 A. A little while after.

16 Q. What's a little while?

17 A. I don't know. Within the next few minutes.  
18 After making some calls and speaking to the  
19 supervisors.

20 Q. Did he call from his cell phone?

21 A. I think so.

22 Q. What are you doing at that time?

23 A. Standing there.

24 Q. You are in the apartment looking around?

25 A. Standing in the apartment.

YVETTE PACHECO SENIOR COURT REPORTER

HERNANDEZ - CONTINUED CROSS - DEFENSE

1 Q. Looking around?

2 THE COURT: Did you have your eyes  
3 closed?

4 THE WITNESS: No, sir.

5 A. Yes, I was looking around.

6 Q. With regard to the apartment, what's your  
7 recollection with regard to the window? You described  
8 something about garbage bags covering the window?

9 A. A regular black garbage bag covering the  
10 window.

11 Q. Taking a look at C in evidence.

12 A. Yes, sir.

13 Q. Take a look at that fourth photograph, I guess  
14 that photograph. The window looked a little different  
15 than that?

16 A. You mean on that date?

17 Q. Yes, on November 1, 2007. Do you recall the  
18 curtain being on the window?

19 A. There may have been curtains.

20 THE COURT: He wants to know if you  
21 recall it. That curtain in that picture, was that  
22 curtain there the night or evening you were in the  
23 apartment?

24 THE WITNESS: I can't recall that.

25 THE COURT: You don't recall?

YVETTE PACHECO SENIOR COURT REPORTER

HERNANDEZ - CONTINUED CROSS - DEFENSE

1 THE WITNESS: That is correct.

2 Q. Do you recall seeing venetian blinds on the  
3 window?

4 A. Yes, if I remember, there were blinds.

5 Q. Venetian blinds?

6 A. Some type of blinds, some type of shade.

7 Q. When you say "some type of shade," can you be  
8 a little more descriptive?

9 A. No, sir. Some type of shade that behind it  
10 was the garbage bags.

11 Q. There was a shade and then behind the shade  
12 was a garbage bag?

13 A. That is correct.

14 Q. I want to redirect your attention again to the  
15 second floor apartment. Do you recall seeing venetian  
16 blinds on the front windows of that apartment?

17 A. I don't recall, sir.

18 Q. Did you take the Polaroid pictures that were  
19 taken on the second floor?

20 A. No, sir.

21 Q. I'd like you to take a look at People's  
22 Exhibit 16 and see if it refreshes your recollection  
23 with regards to venetian blinds on the windows?

24 A. It doesn't refresh my recollection, but in the  
25 picture here I see venetian blinds over one of the

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HERNANDEZ - CONTINUED CROSS - DEFENSE

1 windows.

2 Q. Detective Hernandez, is it possible that in  
3 the time period from November 1st to today, that with  
4 regard to -- withdrawn.

5 The photographs that you took on the  
6 fourth floor, they were taken while Detective Romero  
7 was getting a search warrant, or do you recall when  
8 they were taken?

9 A. Sometime during the time that I was there.

10 THE COURT: You couldn't have taken the  
11 pictures at a time you weren't there, unless you  
12 had a fancy shmancy long-distance camera.

13 Do you remember, when you took the  
14 pictures, was Detective Romero on the way down to  
15 get a warrant or do you have any idea at all?

16 THE WITNESS: Some of the pictures --  
17 yeah, they would have to be when he was down --  
18 was downtown already in court.

19 Q. You were taking pictures at that time for what  
20 purpose?

21 A. Just so that I can recall where certain items  
22 were at.

23 Q. So is it fair to say that you didn't clean  
24 anything up or move anything while you were taking  
25 pictures?

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HERNANDEZ - CONTINUED CROSS - DEFENSE

1           A.    No, I don't think I would have cleaned  
2 anything up.

3                   THE COURT:   Assuming that you'd taken  
4 pictures before Detective Romero left, would you  
5 have given Detective Romero a picture to have  
6 taken down to the judge?  Is it more likely that  
7 you didn't take pictures when Detective Romero was  
8 still there since that didn't happen?

9                   THE WITNESS:  That's correct, Your Honor.

10           Q.    You testified that there was a glass table  
11 which appeared to have cocaine residue on it.  Let me  
12 show you what's marked People's Exhibit 27.  Is that  
13 picture reflective of that table?

14           A.    That is correct, sir.

15           Q.    Do you recall how many other pictures you took  
16 while Detective Romero was away?

17           A.    The pictures that were turned over to the data  
18 that should be in that pile.

19           Q.    I'm asking do you recall approximately how  
20 many pictures did you take?

21           A.    Six or seven.

22           Q.    Directing your attention to the closet door,  
23 your recollection is that that door was unlocked and  
24 all you had to do was pull it open?

25           A.    Yes, sir.

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HERNANDEZ - CONTINUED CROSS - DEFENSE

1 Q. You did not use any tools to pop the lock on  
2 the door?

3 A. Not that I can recall.

4 Q. With regard to the money recovered from  
5 Mr. Green's person, do you recall what the  
6 denominations of the money were?

7 A. No, sir.

8 Q. Do you recall it being a number of small  
9 bills?

10 A. I wouldn't know, sir.

11 Q. In your preparation to testify today, did you  
12 take a look or did you review the search warrant  
13 affidavit that was prepared by Detective Romero?

14 A. No, sir.

15 Q. You didn't look at the facts delineated in the  
16 affidavit or affirmation to refresh your recollection  
17 with regards to the incident of that night?

18 A. No, sir. There was no reason for me to do  
19 that?

20 Q. Well, isn't it correct that the only notations  
21 you made with regards to your activity that night was a  
22 one-or-two-line entry in your memo book, isn't that  
23 correct?

24 A. Yes, sir.

25 Q. So to refresh your recollection with regard to

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HERNANDEZ - CONTINUED CROSS - DEFENSE

1 that night, why wouldn't you look at the search warrant  
2 affidavit which lists all the facts that were given to  
3 a judge?

4 A. Because what's on the affidavit is not  
5 important to what I recovered when I searched the  
6 apartment.

7 THE COURT: It's also nothing that these  
8 folks have anything whatever to do with.

9 Q. I'm talking about your preparation to testify.

10 THE COURT: He says he didn't read it.

11 Q. You didn't look at the affidavit to refresh  
12 your recollection?

13 A. No, sir.

14 Q. You read over your Grand Jury minutes; isn't  
15 that correct?

16 A. That is correct, sir.

17 Q. You had conversations with the ADA?

18 A. That is correct, sir.

19 Q. Did you speak with Detective Romero?

20 A. Did I speak to Detective Romero? Have I?  
21 Yes, I have.

22 Q. Of course you did, right?

23 A. Yes.

24 Q. So why wouldn't you look over the affidavit?

25 MR. BERLAND: Objection.

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HERNANDEZ - REDIRECT - PEOPLE

1 THE COURT: Sustained. We have been over  
2 it. It's finished.

3 MR. KEITH: No further questions.

4 THE COURT: Anything else?

5 Mr. Berland, when I said it's finished, I  
6 meant the topic of the affidavit. You understood  
7 it that way, and his reading of that was finished.

8 If you have some other questions on some  
9 other topics, we'll see, but I didn't think that  
10 you misunderstood what I said. We're copacetic.

11 MR. KEITH: Yes. I have a couple of  
12 questions I have to ask.

13 THE COURT: We're back to exhibit?

14 MR. KEITH: Yes.

15 THE COURT: Go ahead.

16 Q. Take a look at what has been marked as  
17 Defendant's N in evidence?

18 MR. KEITH: For identification?

19 THE COURT: It's in evidence.

20 MR. KEITH: If it's in evidence, then I  
21 have no questions.

22 REDIRECT EXAMINATION BY

23 MR. BERLAND:

24 Q. Was there anything this Detective Romero did  
25 on November 1, 2007, other than conduct preliminary

YVETTE PACHECO SENIOR COURT REPORTER

HERNANDEZ - REDIRECT - PEOPLE

1 work that you were not present for?

2 A. That is correct, sir.

3 Q. There was nothing other than getting the  
4 search warrants that you were not present for; is that  
5 right?

6 A. That is correct.

7 Q. All of the property recovered on the fourth  
8 floor was recovered by you; is that right?

9 A. That is correct.

10 Q. So would it be fair to say that the title  
11 "arresting officer," is merely a designation given to  
12 the person who obtains the warrant and does paperwork?

13 MR. KEITH: Objection.

14 THE COURT: That's leading. I suppose I  
15 should sustain it.

16 Q. What does it mean to you when someone is  
17 designated arresting officer?

18 A. To me, it means that he is the person who is  
19 in charge of, in regards to narcotics, in charge of the  
20 investigation and ultimately responsible for the  
21 arrest.

22 Q. And is that person responsible for doing  
23 paperwork?

24 MR. KEITH: Objection.

25 THE COURT: Overruled.

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HERNANDEZ - REDIRECT - PEOPLE

1 A. Yes.

2 Q. Is it that person who would come to court and  
3 obtain a warrant?

4 A. Yes, sir.

5 Q. You were asked by defense counsel on direct if  
6 Manhattan North Narcotics had information that someone  
7 was selling drugs in the second floor apartment. Do  
8 you remember being asked that yesterday?

9 A. Yes, sir.

10 Q. You said that you had information that Steven  
11 Brown was selling cocaine on the second floor. Do you  
12 remember giving that answer?

13 A. I remember giving an answer that I was aware  
14 of the investigation in regards to the sales occurring  
15 at the location.

16 Q. Let me ask you this. Did Narcotics Borough  
17 Manhattan North have any information that drugs were  
18 being stored in a floor above the second floor?

19 A. Yes, sir.

20 Q. Could you please -- withdrawn.

21 Is there a chain of supply in a drugs  
22 operation? Is there what it is called?

23 MR. KEITH: Objection. Form.

24 MR. BERLAND: Withdrawn.

25 Q. What is a chain of supply in a drug operation?

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HERNANDEZ - REDIRECT - PEOPLE

1           A.    A chain of supply is basically the levels of  
2           the individuals or the way the operation is set up on  
3           where -- who is responsible for the stash or the drugs,  
4           where they come from, where they're stored, where they  
5           are packaged, where they go to be sold and the proceeds  
6           of the money taken into the operation.

7           Q.    You just mentioned a stash apartment. What is  
8           a stash apartment?

9           A.    A stash apartment is the location where the  
10          narcotics that are going to be sold at a particular  
11          location are stored so that they're available for the  
12          sellers whenever clientele comes to wherever the seller  
13          is operating from.

14          Q.    Now, generally speaking, does a seller  
15          typically sell from a stash apartment?

16          A.    No.

17          Q.    Why not?

18          A.    Because that would put the product at risk and  
19          also any proceeds or any money gained from the drug  
20          selling, put it at risk, as well as the individual  
21          selling.

22          Q.    Generally speaking, would someone buying drugs  
23          know anything about a supplier's stash apartment?

24          A.    It's better -- organizationalwise, it's better  
25          for the buyer not to know where the stash apartment is,

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HERNANDEZ - REDIRECT - PEOPLE

1 stash house or the individual actually responsible for  
2 stashing or holding drug or ownership.

3 Q. You said it would be better not to know, of  
4 course. Can you explain why that's the case for the  
5 jury?

6 A. It prevents, from the owner's standpoint, the  
7 people operating it or stashing the drugs, it puts the  
8 information that the buyer has at a minimum. The person  
9 only knows who they're actually dealing with, who is  
10 actually selling to them for multiple purposes. One, to  
11 give out the information to a team of robbers who can  
12 come to the location and rob the place for the drugs  
13 and money. And, the person could be a person working  
14 with the police department who can then give the  
15 information to the police which will result in search  
16 warrants.

17 Q. Can you take a look at Defendant's B and C for  
18 a moment in evidence. You see those?

19 A. Yes, sir.

20 Q. Are those pictures of the fourth floor  
21 apartment?

22 A. They appear to be so, yes, sir.

23 THE COURT: Both?

24 THE WITNESS: One is, Exhibit C.

25 Q. You stated yesterday that the picture depicted

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HERNANDEZ - REDIRECT - PEOPLE

1 the general layout of the room; is that right?

2 A. That is correct, sir.

3 Q. What about the furniture in the picture --  
4 withdrawn.

5 Is that how the furniture in the room  
6 appeared on November 1, 2007?

7 A. Some of the item, but some of the items are  
8 also missing.

9 Q. Did you take that picture?

10 A. No, sir.

11 Q. Is there a glass table with white powdery  
12 substance in that picture?

13 A. No, sir. That is not in this picture.

14 Q. So the picture that the defense introduced  
15 into evidence doesn't have a picture of a table with a  
16 white powdery substance?

17 A. No, sir.

18 Q. You have no idea what date that was taken?

19 A. That is correct, sir.

20 Q. Finally, Defendant's E.

21 A. Yes, sir.

22 Q. What is that?

23 A. It's picture -- they are --

24 Q. What is Defendant's E?

25 A. 451 Lenox Avenue.

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HERNANDEZ - RECROSS - DEFENSE

1 THE COURT: With the nice laundromat  
2 sign?

3 THE WITNESS: Yes, they are.

4 Q. That pic -- you do not know when that was  
5 taken?

6 A. I don't know, sir.

7 Q. But on November 1, 2007, there were no wires  
8 in front of the building like there are in that  
9 picture?

10 A. No, I don't recall there being wires like this  
11 hanging down.

12 MR. BERLAND: I have nothing further.

13 THE COURT: Further questions?

14 RECROSS-EXAMINATION BY

15 MR. KEITH:

16 Q. Before November 1, 2007, before you entered  
17 that fourth floor apartment, did you have any  
18 information whatsoever that suggested that Mr. Edward  
19 Green had anything to do with that operation or  
20 whatever at 451 Lenox Avenue?

21 A. Well, I personally didn't, but I was not the  
22 investigating officer.

23 THE COURT: So you didn't.

24 THE WITNESS: I did not.

25 Q. Have you --

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HERNANDEZ - RECROSS - DEFENSE

1 THE COURT: He decided the shortest  
2 truthful answer. The best answer is no.

3 MR. KEITH: That's what I was hoping for,  
4 Your Honor, just no. I didn't get that.

5 A. No.

6 MR. KEITH: No further questions.

7 THE COURT: Anything else?

8 MR. BERLAND: No, I think we're good.

9 THE COURT: Forget the editorializing.  
10 You're excused.

11 Call somebody else.

12 MR. BERLAND: The People call Detective  
13 Anthony Romero to the stand.

14 COURT OFFICER: Witness entering. Remain  
15 standing and face the clerk.

16 THE CLERK: Do you swear the testimony  
17 you are about to give will be the truth, the whole  
18 truth and nothing but the truth?

19 THE WITNESS: I do.

20 COURT OFFICER: State your name, spell  
21 the last name, shield and command.

22 THE WITNESS: Detective Anthony Romero,  
23 R-O-M-E-R-O, 5726, assigned to Manhattan North  
24 Narcotics Major Case Team.

25 THE COURT: Go ahead.

YVETTE PACHECO SENIOR COURT REPORTER

ROMERO - DIRECT - PEOPLE

1 DIRECT EXAMINATION BY

2 MR. BERLAND:

3 Q. Good afternoon, Detective Romero.

4 A. Good afternoon.

5 Q. How long have you been with the New York  
6 Police Department?

7 A. One month shy of 18 years.

8 Q. How long, specifically, with Manhattan North  
9 Narcotics?

10 A. Twelve years, sir.

11 Q. What is your current rank?

12 A. Detective second grade.

13 Q. How long have you been a detective with the  
14 New York Police Department?

15 A. Ten years.

16 Q. Are you assigned to a specific unit within the  
17 Manhattan North Narcotics?

18 A. Yes, I am, the Major Case Unit.

19 Q. Please tell the members of the jury some of  
20 your duties and responsibility as a detective in the  
21 Major Case Unit.

22 A. In the Major Case, we also assist all the  
23 other teams in the building with their investigations,  
24 we develop long-term cases, short- and long-term cases  
25 on larger targets and larger weight investigations.

YVETTE PACHECO SENIOR COURT REPORTER

ROMERO - DIRECT - PEOPLE

1 Q. Now, during your career, approximately how  
2 many arrests have you made?

3 A. More than five.

4 Q. Approximately how many -- when you say you  
5 assisted, how many would you say you assisted in?

6 A. Easily more than 2000.

7 Q. Approximately how many of these arrests were  
8 for narcotics possession?

9 A. I would say about 75 percent of those.

10 Q. What about the narcotics sale?

11 A. Sale? I'd say at least 100 to 200.

12 Q. Have you had specialized training in the field  
13 of narcotics enforcement?

14 A. Numerous training.

15 Q. Have you been trained in recognizing, pricing,  
16 and packaging of narcotics in New York?

17 A. Yes.

18 Q. Please explain for the members of the jury  
19 some of the training you've received.

20 A. Initial training when a patrol officer. I was  
21 in the street narcotics unit, and that was where I  
22 learned how to identify sales, difference between  
23 buyers and sellers, how drugs are packaged and price of  
24 drugs. Then, when I went to narcotics in '96, much more  
25 vigorous training; how to utilize undercovers, how to

YVETTE PACHECO SENIOR COURT REPORTER

ROMERO - DIRECT - PEOPLE

1 do investigations, how to identify larger drugs, how to  
2 work your way from making a simple arrest and working  
3 your way up in the investigation.

4 Q. Now, during your career, approximately how  
5 many search warrants have you conducted?

6 A. As the affiant?

7 Q. Yes.

8 A. About more than 50.

9 Q. What does it mean to be the affiant of the  
10 search warrant?

11 A. I actually swore out the search warrant in  
12 my name.

13 Q. How many of the search warrants that you have  
14 sworn out were for narcotics or narcotics  
15 paraphernalia?

16 A. All of them.

17 Q. Let's move now to November 1, 2007. Were you  
18 working that day?

19 A. Yes, I was.

20 Q. What was your assignment?

21 A. I was the arresting officer on two search  
22 warrants to be executed at 451 Lenox Avenue.

23 Q. Who from your unit obtained the two search  
24 warrants?

25 A. I did.

YVETTE PACHECO SENIOR COURT REPORTER

ROMERO - DIRECT - PEOPLE

1 Q. When did you obtain them?

2 A. I believe it was a few days prior, the 24th of  
3 October, I believe.

4 THE COURT: Both of them before the date  
5 of November 1st?

6 THE WITNESS: Yes, sir.

7 Q. Referring to the initial two search warrants?

8 A. The initial two was for apartment one and  
9 third floor apartment.

10 Q. Where did you go to obtain the warrants?

11 A. To here, to Manhattan Supreme Court.

12 Q. Did you meet with anyone to go over the  
13 information that would be included in the search  
14 warrant application?

15 A. I met with you, ADA Berland, to go over it.

16 Q. Where did we meet?

17 A. Your office, this building here.

18 Q. Did there come a time we went before a judge?

19 A. Yes, we did.

20 Q. Who was that judge, if you recall?

21 A. Judge Solomon.

22 Q. Did there come a time that you were given two  
23 search warrants authorizing the police to search two  
24 apartments?

25 A. Yes.

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ROMERO - DIRECT - PEOPLE

1 Q. Tell the jury about the location that you were  
2 authorized to search?

3 A. The first search warrant was for apartment  
4 one, only apartment on the second floor of 451 Lenox  
5 Avenue, and what we called apartment two, which was on  
6 the third floor of 451 Lenox Avenue.

7 Q. Did there come a time, Detective, that you  
8 actually executed the two search warrants?

9 A. Yes -- No, I only executed one of the search  
10 warrants?

11 Q. Let's get back to November 1, 2007 now.

12 Did there come a time that you and your  
13 team went to 451 Lenox Avenue?

14 A. Yes, we did.

15 Q. Was Detective Alfred Hernandez part of your  
16 team?

17 A. Yes.

18 Q. Can you describe the layout of the building  
19 for the jury as you observed it when you first arrived  
20 at 451 Lenox Avenue?

21 A. 451 Lenox Avenue is on the west side of Lenox  
22 Avenue between 132nd and 133rd Street. The south side  
23 of the building houses a laundromat. Just to the north  
24 of the laundromat is one single locked door going into  
25 the upstairs residence.

YVETTE PACHECO SENIOR COURT REPORTER



ROMERO - DIRECT - PEOPLE

1 Q. Tell the jury what happened once your team or  
2 teams arrived at the location.

3 A. The outer door of the building is locked, so  
4 we utilized a walk-on, a member of our team that would  
5 be able to walk up to the building without racing up  
6 the neighborhood. He hung out in front of the building  
7 for a few minutes until somebody went to open the door.  
8 When they opened the door, he held the door opened and  
9 engaged the gentleman in conversation. At that time,  
10 we gave the move-in order. We are only a block away at  
11 the time. He stepped to the side. The first entry team  
12 which was going to the third floor went into the  
13 building first. I was the first person in the second  
14 entry team. The reason we did it that way was it was a  
15 narrow stairway. If the first team went in, the second  
16 team would never be able to get past it.

17 Q. Did there come a time when you and your team  
18 entered the building?

19 A. Correct.

20 Q. Did there come a time when you made your way  
21 up to the second floor landing of the building?

22 A. Yes.

23 THE COURT: Did you know about the  
24 narrowness of the staircase before you got to the  
25 building that day?

YVETTE PACHECO SENIOR COURT REPORTER

ROMERO - DIRECT - PEOPLE

1 THE WITNESS: Yes.

2 Q. What did you do once you got to the second  
3 floor?

4 A. The original plan was to use the ram to open  
5 the door. As I got to the first landing, the door was  
6 open. I entered the apartment with my field team  
7 following me.

8 Q. Please tell the members of the jury what you  
9 observed once you entered the second floor apartment.

10 A. Even before I entered the apartment, there was  
11 a mirror on the far wall. I could see a man sitting in  
12 a room just to the right of the doorway, who was  
13 Mr. Brown. As I went into the -- first I put him in  
14 custody. As we entered the apartment on a search  
15 warrant, we put each person in custody until we cleared  
16 the whole apartment.

17 Q. Please take a look at what's in evidence as  
18 People's 1. Do you recognize that picture?

19 A. Yes, I do.

20 Q. Who is it?

21 A. Steven Brown.

22 Q. After Steven Brown was placed into custody,  
23 please tell the members of the grand jury --

24 THE COURT: Members of the jury.

25 Q. Please tell the members of Grand Jury --

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ROMERO - DIRECT - PEOPLE

1 THE COURT: They're group of grand  
2 people, not members of the Grand Jury.

3 Q. -- what was recovered from inside the  
4 apartment?

5 A. Initially, I recovered from a wooden box on a  
6 glass shelf 18 bags of cocaine and U.S. currency, \$965.

7 Q. Did you notice a video surveillance system in  
8 place inside of the second floor apartment?

9 A. Yes, there was a TV monitor. When I looked at  
10 the monitor, it was a split screen. I could see my  
11 field team -- my front security people out on the  
12 street.

13 Q. At that time -- you said it was a split screen  
14 monitor. Explain the monitor.

15 A. Half the screen showed the stairwell, and  
16 other half, the front of the building.

17 Q. When you were looking at the monitor, could  
18 you see anything in the stairwell?

19 A. Just the stairs. All personnel where they  
20 were assigned already.

21 Q. So there was nobody on the stairs at that  
22 point?

23 A. No.

24 Q. Did you later come to learn, Detective,  
25 whether or not there was a video surveillance system in

YVETTE PACHECO SENIOR COURT REPORTER

ROMERO - DIRECT - PEOPLE

1 any other apartment or rooms in the building?

2 A. Yes, we later found -- we followed wires to a  
3 second apartment.

4 Q. Where was the second apartment located?

5 A. On the fourth floor, the southwest corner of  
6 the building.

7 Q. Were you considered the vouchering detective  
8 on the case?

9 A. Yes.

10 Q. As the vouchering detective, were you  
11 responsible for safeguarding all the narcotics and  
12 paraphernalia that was recovered in conjunction with  
13 the search warrant execution?

14 A. Yes, I am.

15 Q. What did you personally do with all of the  
16 narcotics and paraphernalia recovered?

17 A. When I returned to the building after  
18 obtaining the third search warrant, I then, with  
19 Detective Hernandez, we loaded all of the property into  
20 my van and we took it back to our office at 147th  
21 Street.

22 Q. Was it placed inside of a secured location?

23 A. Yes, it was brought to my office.

24 Q. And do you know where the narcotics and  
25 evidence is sent from there?

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ROMERO - DIRECT - PEOPLE

1           A. From there, after vouchering, each thing is  
2 sent to a different place, the narcotics, the drugs are  
3 sent to the police lab which is out in Jamaica, the  
4 other property is sent to the police headquarters.

5           Q. Did there come a time that you retrieved this  
6 property from the different secured locations?

7           A. Yes, I did.

8           Q. When was this?

9           A. Yesterday -- excuse me, yesterday and the day  
10 before.

11          Q. What did you do with the property after you  
12 picked it up?

13          A. Brought it all to your office and secured it  
14 there.

15          Q. Detective Romero, did there come a time that  
16 you went up to the fourth floor at 451 Lenox Avenue?

17          A. Yes, I did.

18          Q. Once you got to the fourth floor, did you  
19 attempt to -- what did you see when you got up to the  
20 fourth floor?

21          A. The first time I went up to the fourth floor  
22 or --

23          Q. Yes.

24          A. Do you want me to explain what led us up to  
25 the fourth floor?

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ROMERO - DIRECT - PEOPLE

1 Q. What led you up to the fourth floor?

2 A. Originally, the second team who was executing  
3 the search warrant which was identified as apartment  
4 two on the third floor, the leader of the floor team  
5 came down and asked me which apartment. At that time,  
6 I went back upstairs with the lieutenant and realized  
7 that there were four apartments on each floor. The  
8 outer door was a locked door.

9 That was a separate apartment, and at  
10 that time, I decided that we were not going to execute  
11 the search warrant because we were not totally sure  
12 which apartment it was. At that time, the lieutenant  
13 had people from the field team on the fourth floor and  
14 third floor just securing the floor.

15 I went back downstairs to continue the  
16 search in apartment one on the second floor. At that  
17 time, I recovered keys from Mr. Brown's jacket, and  
18 myself and Detective Hernandez and my supervisor went  
19 back up to the fourth floor. At the same time --

20 Let me step back one step. When we  
21 originally -- I had mentioned that I informed the field  
22 team when we first entered the apartment that I was  
23 able to see them on the outside on the street. What we  
24 do is take the cameras with us. So we identified where  
25 the camera was at in front of the building.

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ROMERO - DIRECT - PEOPLE

1 We do it by the radio. I tell the  
2 officer in front to keep looking and I tell him  
3 when he's looking exactly in the camera so he has a  
4 direction to start searching. So they found the camera  
5 and told me the cable went up to the top of the  
6 building.

7 My rear security informed me that there  
8 were cables going into the windows of the back of that  
9 apartment. That's what brought us back up to the fourth  
10 floor. Also, the lieutenant said when they opened --  
11 when they breached the door on the fourth floor with  
12 the ram, that they heard a door slam on the fourth  
13 floor.

14 Q. Did he say anything about running and then a  
15 door slamming, if you recall?

16 MR. KEITH: Objection. Leading.

17 THE COURT: Sustained.

18 Q. What did the lieutenant say?

19 A. Heard somebody on the stairs and heard a door  
20 slam.

21 Q. Once you -- now, once you had a target door on  
22 the fourth floor with the wire leading into it, what  
23 did you do?

24 A. Took the keys I recovered from Mr. Brown, and  
25 tried it in the lock. The lock turned. I went to open

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1 the door, Detective Hernandez said -- when we enter a  
2 search warrant apartment, we enter it with a full  
3 plastic bunker. Detective Hernandez suggested that I  
4 go down and get the bunker. He and the lieutenant  
5 stayed there at the door. We relocked the door. Also,  
6 at that time we're knocking on the door, announcing  
7 ourselves, police. No one answered. I go down and I  
8 get a bunker and flashlight and come back up, then we  
9 open the door, swing the door open and I enter bunker  
10 first with the flashlight because it was pitch black in  
11 the apartment.

12 Q. Why did you use a bunker when you opened the  
13 door?

14 A. It's procedure, but it's a ballistic bunker.  
15 If something were to happen, fire on us, the bunker  
16 takes the hit and not us.

17 Q. Before you opened the door, you said you  
18 knocked on it. Approximately, how many times would you  
19 say you knocked on the door?

20 A. Numerous doors, announcing who we were, if  
21 there was anybody in the apartment, to answer, to come  
22 out, and there was no reply.

23 Q. When you say "numerous times," do you mean  
24 more than ten?

25 A. Yes.

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1 Q. More than 20?

2 A. Well, the entry team that originally breached  
3 the third floor door, they thought they were going into  
4 an apartment. What we yell is police, search warrant.  
5 I knocked on the door. I loudly said it was the  
6 police, open the door. No one answered. Numerous  
7 times. Once I came back upstairs with the bunker,  
8 announce it again, and still no reply.

9 Q. So when you opened the door, explain to the  
10 jury -- I know you said it was dark. Explain the  
11 lighting conditions.

12 A. Pitch black in the apartment.

13 Q. Couldn't see anything?

14 A. Nothing at all.

15 Q. What did you do next?

16 A. The door swung (sic) from right to left, and I  
17 entered the apartment. As soon as I took a step into  
18 the apartment with the light, I could see Mr. Green  
19 sitting on the couch.

20 Q. When you say with the lighting, referring to  
21 the flashlight or the lights in the apartment?

22 A. There's lights on the front of the bunker. You  
23 squeeze the handle and it lights up.

24 Q. Did there come a time that you turned the  
25 lights on to the room on the fourth floor?

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1           A.    Yes -- I don't believe I did because my  
2           hands -- I had a bunker in one hand, the gun in the  
3           other hand. I think it was Detective Hernandez.

4           Q.    Do you recall if there was a light switch or  
5           bulb that had to be turned?

6           A.    It was definitely a switch. I believe it was a  
7           switch on the wall.

8           Q.    Would you tell the jury what you observed at  
9           the moment the lights to the room were turned on?

10          A.    Very small room. The room, I would say, is  
11          about the width of the jury box and half the length,  
12          and Mr. Green was sitting on the couch staring -- the  
13          couch was on the same wall as where I entered, and he  
14          was staring at the wall with no response.

15          Q.    Do you see Edward Green in the courtroom here  
16          today?

17          A.    Yes, I do.

18                   THE COURT:   Sorry. You said he was to the  
19           door's right?

20                   THE WITNESS:   Yes, sir.

21                   THE COURT:   When you ultimately looked in  
22           his direction, he was not looking at you.

23                   THE WITNESS:   No, sir. This was the  
24           door. He'd be sitting right where your books are,  
25           facing away from me.

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1 Q. So you weren't face-to-face with Mr. Green?

2 A. Not until I walked up on him.

3 Q. When you first saw him, you were not  
4 face-to-face, you were still speaking to him and  
5 announcing who you were?

6 A. Once I saw him, I stopped right there and  
7 ordered him to get to the ground and he didn't move.

8 Q. Did he turn his head at all and look towards  
9 you?

10 A. No.

11 Q. Do you see Edward Green in the courtroom here  
12 today?

13 A. Yes, I do.

14 Q. Please point to him and indicate an article of  
15 clothing.

16 A. Sitting right there and wearing a white shirt.

17 MR. BERLAND: Let the record reflect the  
18 witness has identified the defendant.

19 THE COURT: Sure.

20 Q. I'm handing you what has been marked for  
21 identification as People's Exhibit 28. Do you  
22 recognize this?

23 A. This is Mr. Green as he looked on the date of  
24 the arrest.

25 Q. So does it fairly and accurately depict the

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1 way he looked on November 1, 2007?

2 A. Yes.

3 MR. BERLAND: I ask that the photograph  
4 be moved into evidence.

5 MR. KEITH: Can I see that?

6 THE COURT: Show it to the defense,  
7 please.

8 MR. BERLAND: Oh, I'm sorry.

9 (HANDING.)

10 THE COURT: Any objection?

11 MR. KEITH: No.

12 THE COURT: 28 is received.

13 (People's Exhibit 28 was received in  
14 evidence.)

15 THE COURT: We'll mark it more formally  
16 later. Please continue.

17 Q. Please tell the members of the jury what you  
18 observed inside of this tiny fourth floor room.

19 A. Like I said, to the right was a couch with  
20 Mr. Green sitting on it, table in the corner. In front  
21 of me was like a work desk. Underneath it, there was  
22 paraphernalia all over. There was a heat sealer on the  
23 floor. There was cocaine residue in the desk top.  
24 There was Baggies on top of what was like a fake  
25 fireplace mantel. Once we had him in custody, we

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1 finished to clear the room. There was one closed door,  
2 which turned out to be a closet and in the closet were  
3 two safes.

4 Q. The closed door, was there a lock on it?

5 A. No.

6 Q. Did there come a time that the closet was  
7 open?

8 A. Yes, to make sure there was no one else in the  
9 apartment.

10 Q. What, if anything, was located in that closet?

11 A. Two safes.

12 Q. What happened next? What did you do?

13 A. At that time, I spoke with my lieutenant and  
14 we -- I went down to see Mr. Berland to obtain a search  
15 warrant for that apartment.

16 Q. Did there come a time that you obtained a  
17 supplemental search warrant?

18 A. Yes, I did.

19 Q. What did you do upon obtaining a warrant?

20 A. After I obtained it.

21 Q. Yes.

22 A. I then called Detective Hernandez, who was  
23 securing the apartment for me and told him to begin the  
24 search, that we had a search warrant for that  
25 apartment.

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1 Q. Did there come a time that you went back to  
2 451 Lenox Avenue?

3 A. Yes.

4 Q. Tell the members of the jury what you observed  
5 once you got back there.

6 A. In apartment one, I let Detective Salvatore,  
7 another member of the team, they finished the search of  
8 that apartment and went through all the evidence with  
9 Detective Salvatore, where everything was located and I  
10 took possession of that property. I then went upstairs  
11 to Detective Hernandez and they were just about  
12 finishing up. And they -- once again, he was the  
13 recovering officer and he showed me where everything  
14 was and what they recovered and then transported  
15 everything back.

16 Q. When you say Detective Hernandez was the  
17 recovering officer, are you referring to the property  
18 solely in the fourth floor room?

19 A. Correct.

20 Q. By the way, was any money recovered from the  
21 defendant?

22 A. \$333.

23 Q. From where?

24 A. I believe his pants pocket.

25 Q. Had you ever met Steven Brown before

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1 November 1, 2007?

2 A. No.

3 Q. Had you ever met the defendant, Edward Green,  
4 before November 1, 2007?

5 A. No, sir.

6 MR. BERLAND: I have no further  
7 questions. May I ask two follow-up questions?

8 THE COURT: Sure.

9 Go ahead.

10 Q. From the money recovered from Steven Brown,  
11 Edward Green and the two apartments, was that  
12 vouchered?

13 A. Yes.

14 Q. Once money is vouchered, what happens to it?

15 A. There's three reasons to voucher money; for  
16 safekeeping, arrest evidence or forfeiture. In the case  
17 of proceeds of narcotics sale, we take the money  
18 forfeiture, process it for forfeiture.

19 Q. The physical money when you came back to  
20 see --

21 A. We get a receipt from the bank. If we take it  
22 for arrest evidence, it's perforated at headquarters  
23 and kept intact taken for forfeiture, but put back in  
24 the system and we get a record from the bank.

25 MR. BERLAND: Nothing further.

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1 CROSS-EXAMINATION BY

2 MR. KEITH:

3 Q. Good afternoon.

4 A. Good afternoon.

5 Q. How old are you?

6 A. Forty-nine years old.

7 Q. What's your educational background?

8 A. High school diploma and one year of college.

9 Q. Directing your attention to November 1, 2007.

10 After entering the fourth floor apartment and seeing  
11 Mr. Green, there came a time where you went to get a  
12 search warrant for that apartment; isn't that correct?

13 A. That is correct, sir.

14 Q. And you went and you spoke with Assistant  
15 District Attorney Berland?

16 A. That is correct, sir.

17 Q. And you sat down with him and you told him  
18 truthfully and honestly the observations you made  
19 at 451 Lenox Avenue; isn't that correct?

20 A. That is correct, sir.

21 Q. You were in his office?

22 A. Yes.

23 Q. Was he taking notes?

24 A. He took notes to write out the affidavit for  
25 the warrant, yes, sir.

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1 Q. So he's writing on a paper or notepad or  
2 something to that effect?

3 A. I believe he typed it into the computer which  
4 prints out the affidavit.

5 Q. He was sitting down typing onto the computer  
6 as you were describing to him the activities at 451  
7 Lenox Avenue?

8 A. I believe first I described to him just as I  
9 just did and then he wrote the affidavit and asked  
10 questions as he was writing it.

11 Q. And you were with him for approximately an  
12 hour, isn't that correct?

13 A. I believe so.

14 Q. When he finished the affidavit, you had a  
15 chance to read it over?

16 A. Of course.

17 Q. You signed it?

18 A. Yes, I did -- I signed it in front of the  
19 judge.

20 Q. This is the second affidavit before Criminal  
21 Court judge, Judge White?

22 A. That's correct.

23 Q. In your review of that affidavit, was it  
24 accurate and complete?

25 A. I believe so, yes.

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1 Q. Now, I believe on direct examination you  
2 indicated that when you were in the second floor  
3 apartment, you recovered some keys from Steven Brown;  
4 isn't that correct?

5 A. From Mr. Brown's jacket, yes.

6 Q. And to be accurate and precise, would it be  
7 fair to say that you recovered the keys from a jacket  
8 that was on a chair near Mr. Brown?

9 A. Correct.

10 Q. Describe again what was done with those keys.

11 A. I took keys and I went up to the fourth floor  
12 and I tried the door in the southwest apartment of that  
13 building.

14 Q. That was the first thing that was done with  
15 the keys?

16 A. Yes. I took possession of them and I went back  
17 up to the fourth floor with a supervisor and  
18 Detective Hernandez.

19 Q. Isn't it true that in the affidavit that you  
20 gave the judge to get the search warrant, you indicated  
21 in the affidavit that was prepared by ADA Berland and  
22 yourself that the keys were first taken by a member of  
23 your team to the apartments on the third floor, and  
24 each of those apartments, they tried to open the doors  
25 to those apartments, isn't that what you indicated to

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1 the judge?

2 A. I tried those apartments after I made entry  
3 into the apartment. I didn't do it beforehand. I only  
4 did it afterwards to confirm that the key only opened  
5 the door on the fourth floor.

6 Q. You told the judge the other way around, you  
7 told the judge in the affidavit that you went to the  
8 third floor first?

9 A. I don't believe I tried the keys. I had to go  
10 through the third floor to get to the fourth floor.

11 MR. BERLAND: Your Honor, can we  
12 approach?

13 THE COURT: No. Very, very limited  
14 amount of this is even arguably admissible in  
15 front of the jury, since I have told them a couple  
16 of times that nothing related to the execution of  
17 the search warrant has anything to do with them,  
18 their ability to make the decision. A search  
19 warrant is so complicated, that no jury is asked  
20 to deal with it.

21 MR. KEITH: Your Honor, I'm not asking  
22 the jury to have any consideration with regard to  
23 the search warrant.

24 THE COURT: Objection sustained.

25 MR. KEITH: May we approach?

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1 THE COURT: Sure.

2 (Whereupon, a sidebar conference was held  
3 on the record out of the hearing of the jury.)

4 THE COURT: I gather that Exhibit F that  
5 started this is the affidavit itself?

6 MR. KEITH: Yes.

7 THE COURT: What is it that you wanted to  
8 come over with?

9 MR. KEITH: I just wanted to attack his  
10 credibility. He says one thing to you, he says  
11 another thing to Judge Whiten, another thing to  
12 the jury. The search warrant is totally  
13 irrelevant. It's just his inconsistency. The lack  
14 of credibility.

15 THE COURT: Suppose all of that happened,  
16 suppose we did that for an hour and a half and you  
17 were successful as you could possibly be and  
18 became a teary-eyed jellyfish, what would you then  
19 say to the jury in the summation? I can't attack  
20 his credibility. Please answer my question.

21 MR. KEITH: Well, Your Honor, ultimately,  
22 I guess the People have going to argue that  
23 because of the way the stuff was situated in the  
24 room, that somehow that imputes knowledge to  
25 Mr. Green.

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1 THE COURT: Sure.

2 MR. KEITH: I think Detective Hernandez  
3 mischaracterized what he saw in the room. I think  
4 that credibility has become an issue in this case.  
5 They just didn't bring it out the way it happened.

6 THE COURT: Well, then if you can show me  
7 a Court of Appeals case that says that as in a  
8 Huntley hearing, as with a Wade hearing,  
9 notwithstanding a decision by a judge in a hearing  
10 specifically constituted to deal with the  
11 credibility issues related to the application for  
12 a search warrant, notwithstanding that, that a  
13 jury gets a second bite at the search warrant  
14 procedure the way they would a second bite at a  
15 Huntley hearing and Wade hearing, I will yield.

16 In the absence of your ability to show me  
17 a case that says anything other than what I think  
18 both of us know the law is, you can't do what you  
19 want to go do because there's nothing that you  
20 could do with it and there's nothing that the jury  
21 can evaluate, because as I said, suppose you were  
22 successful, this isn't the place to attack the  
23 credibility of the search warrant.

24 MR. KEITH: You can't let this officer  
25 come in here and just say what he wants to say

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1 when you know --

2 THE COURT: How do I know? I wasn't  
3 there.

4 MR. KEITH: You read the search warrant.  
5 We have dealt with this in the Darden-type  
6 hearing. You asked him questions. He gave you  
7 answers that are completely different than what he  
8 is giving me right now.

9 THE COURT: I don't remember completely  
10 different. I remember having a certain disparaging  
11 comment or two about this witness, but ultimately  
12 the decision was as it was.

13 If in fact you said that the facts about  
14 the placement of the stuff in the fourth floor is  
15 inaccurate because I guess your client says he saw  
16 the police move the stuff or bring it from  
17 someplace else, your conviction is to put him on  
18 the stand. The objection is sustained.

19 MR. KEITH: Your Honor, with regard to  
20 the affidavit, they had to go to Judge Whiten with  
21 some information in order to get him to sign the  
22 warrant. Some of the information is the  
23 observations of the officer when he goes up to the  
24 fourth floor. That's in the affidavit.

25 THE COURT: Like what? I don't remember

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1 everything. They turn the key.

2 MR. KEITH: He describes how the search  
3 was conducted. They do everything on third floor,  
4 go to the fourth floor, enter the room and make  
5 certain observations. The observations in the  
6 affidavit are different than what he testified to.

7 THE COURT: Can you show me?

8 MR. KEITH: Paragraphs 13 and 14.

9 MR. BERLAND: There's nothing different.

10 THE COURT: According to the affidavit,  
11 the detective witness swore to in front of  
12 Judge Whiten, paragraph 13 says a member of the  
13 team unsuccessfully attempted to open locked rooms  
14 on the third floor with the keys recovered from  
15 Mr. Brown. I'm not -- I'm read it quickly. I  
16 don't know whether there's language in here that  
17 says what Mr. Keith assumes, namely that that's  
18 the sequence. Let's assume that's the sequence.

19 MR. KEITH: Just read the next sentence.  
20 He says somebody else did. He's saying he did it.

21 THE COURT: I don't think that's a big  
22 deal.

23 MR. KEITH: It is as far as being  
24 precise.

25 THE COURT: The objection is still

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1           sustained.

2                   (Whereupon, the sidebar conference  
3 concluded and the proceedings continued in open court  
4 as follows:)

5           THE COURT: Go ahead.

6           Q. Detective Romero, I think you indicated on  
7 direct examination that you were the person that put  
8 the key into the lock of the door on to the fourth  
9 floor and tried it and then decided not to go in; is  
10 that correct?

11          A. That is correct, sir.

12          Q. Is your recollection clear on that? Is that  
13 the way you remember it?

14          A. That's the way I remember, sir.

15          Q. On the night of the incident, isn't it correct  
16 that your affidavit to the judge --

17               MR. BERLAND: Objection.

18               THE COURT: Overruled.

19          Q. You indicated that you and members of the  
20 executing team then back up to the fourth floor of the  
21 target building and you observed a member of the team  
22 place one of the keys recovered from JD mustache, who  
23 is also Steven Brown, inside of the doorknob to the  
24 target premises?

25          A. I opened the door, I turned the key in the

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1 door.

2 Q. Didn't you --

3 THE COURT: The night that you swore in  
4 front of Judge White, the affidavit says that you  
5 saw somebody do it.

6 A. No, I did it. The member of my team turned  
7 the key to open to the door when we made entry because  
8 I had no hands available. The key was in the door. I  
9 originally tested the door and then when we were ready  
10 to go into the apartment, Detective Hernandez had to --  
11 'cause there was no way to turn the key; firearm in my  
12 right hand and shield in my left hand.

13 Q. You are saying Detective Hernandez turned the  
14 key?

15 A. I turned it the first time and saw the door  
16 open. Went to open the door, and Detective Hernandez  
17 said to me we should get a bunker. I closed the door  
18 and locked it again, leaving the key in the door. Went  
19 downstairs to get a bunker and flashlight and then came  
20 back. When we went to go in, I was holding a bunker in  
21 my left hand, firearm in my right hand, so  
22 Detective Hernandez had to turn the key to open the  
23 door.

24 Q. Now, other than preparing that sworn affidavit  
25 on the date that you obtained the search warrant,

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1 there's been other occasions in this case where you've  
2 given sworn testimony; isn't that correct?

3 A. Yes, there is.

4 Q. And do you recall that you testified before  
5 the Grand Jury?

6 A. Yes, I did.

7 Q. And did you tell the truth when you testified  
8 before the Grand Jury?

9 A. Yes, I did.

10 Q. And there was also a pretrial hearing in which  
11 you gave testimony to Justice McLaughlin. Do you  
12 recall testifying in that hearing?

13 A. Yes, I did.

14 Q. Did you tell Justice McLaughlin the truth?

15 A. Yes, I did.

16 Q. Now, page 306, starting at line --

17 THE COURT: Of which proceeding.

18 MR. KEITH: Of the hearing with you,  
19 Your Honor. Let's start line 19, page 36. Do you  
20 recall being asked these questions and giving  
21 these answers?

22 Question by Justice McLaughlin: "You said  
23 inside the room on the fourth floor where the  
24 fellow was, he was sitting in the room on a  
25 couch?"

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1 Your answer: "Yes, sir."

2 Justice McLaughlin: "Did you open the  
3 lock that got you in there or was it somebody else  
4 whom you watched do it?"

5 You answered: "No, I opened the door.  
6 Before we did it, I noticed the key turn, I banged  
7 on the door, announced it was the police, if  
8 anyone was in there to come out. There was no  
9 response. I did it again. I opened the door. The  
10 room was totally dark. I shined my flashlight in  
11 the room. So the gentleman sitting on the floor  
12 was crouched, just sitting there in the dark. At  
13 that time, we took him into custody, brought him  
14 out. Once we turned the lights on in the  
15 apartment, that's when we saw all the  
16 paraphernalia."

17 Do you recall being asked those questions  
18 and giving that answer?

19 A. Yes I do, sir.

20 Q. As you sit here now, what's the truth?

21 A. Exactly what you just read. There is a  
22 difference between turning the key and opening the door  
23 once the key is turned. Detective Hernandez is behind  
24 me. I would not unlock the door, as I said before,  
25 because my hands were full. Detective Hernandez turned

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1 the lock to unlock the door. What I mean by opening the  
2 door is with the force of my body, I hit the door and  
3 entered the apartment.

4 Q. I believe you told the judge you shined the  
5 flashlight?

6 A. There is a flashlight built into the bunker.

7 Q. You didn't tell the judge about the bunker?

8 A. It's a flashlight, sir.

9 THE COURT: Let me tell the jury what is  
10 happening. If a person is thought to have given  
11 somewhat or completely different testimony on the  
12 same subject in an earlier proceeding, the jury is  
13 entitled to know that for two reasons. One, so  
14 that you could assess credibility. If you decide  
15 there is a variance, then you get to decide  
16 whether the variance affects your assessment on  
17 credibility on issues you will be asked to decide.

18 Continue.

19 Q. Now, with regard to this TV monitor or  
20 television or what have you on the fourth floor, did  
21 there come a time that day that you saw that television  
22 operate, did you see it on at any time?

23 A. After we tested the TV -- both TVs were off.  
24 The monitor and television below were off when we  
25 entered the room. When they turned them both on, the

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1 lower T.V. was hooked to the DVD and the top monitor  
2 was all fuzzed because the two cameras had already been  
3 removed by my field team outside after I directed them  
4 to the cameras.

5 Q. As you sit there right now, that's your  
6 recollection?

7 A. Yes, it is, sir.

8 Q. Now, again, I direct your attention to the  
9 hearing we had when you were questioned by Justice  
10 McLaughlin. I asked if you recall being asked these  
11 questions and giving the answers. Page 37, line 14.

12 "Did you ever figure out how to turn the  
13 monitor on?"

14 And you answered: "Yes."

15 And the Judge asked you: "When you  
16 turned it on, could you see the street?"

17 And you answered: "Yes."

18 Do you recall being asked those questions  
19 and giving those answers to Judge McLaughlin?

20 A. Yes. The only monitor that I saw the street  
21 was from apartment two -- apartment one on the second  
22 floor.

23 Q. These questions were specifically about the  
24 about monitor on the fourth floor?

25 A. As I said before, when I turned on the monitor

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1 on the fourth floor the cameras were already  
2 disconnected and the monitor didn't work, so ...

3 Q. When you told the judge that you see the  
4 street back in this hearing, you were mistaken or  
5 lying --

6 MR. BERLAND: Objection.

7 THE COURT: He's giving him options. Did  
8 I use fourth floor in the question or was it  
9 obvious in the question that that was the fourth  
10 floor?

11 MR. KEITH: Yes, Your Honor.

12 Q. Going back to Page 36, I will repeat the  
13 answers from the previous question.

14 "Did you open the lock that got you in or  
15 was it somebody else you watched do it?

16 No, I opened the door. Before we did,  
17 once I noticed the key turn, I banged on the door,  
18 announced it was the police, if anybody was in  
19 there, to come out. There was no response. I did  
20 it again, opened the door, the room was totally  
21 dark, I shined my flashlight. The gentleman  
22 sitting in the room was crouched sitting in the  
23 dark. At the time we placed him in custody and  
24 brought him out. Once we turned the light on in  
25 the apartment, that's when we saw the

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1 paraphernalia."

2 Your Honor asked him: "Among the  
3 paraphernalia was the TV monitor?"

4 The witness: "Correct."

5 Your Honor asked: "Was it working."

6 He says: "No. Everything was off. The  
7 room was totally black at the time."

8 Your Honor asked him: "Did you ever  
9 figure out how to turn the monitor on?"

10 He says: "Yes."

11 "When you turned it on, could you see the  
12 street?"

13 He said: "Yes."

14 THE COURT: So same instructions that I  
15 gave you a minute ago.

16 THE WITNESS: Understanding it was my  
17 mistake. The only monitor I saw the street on was  
18 the monitor on the second floor because I knew the  
19 cameras had already been disconnected.

20 Q. It's fair to say then that you are assuming  
21 that that TV monitor on the fourth floor was able to  
22 see the street? You never saw it working; is that the  
23 truth?

24 A. That's correct.

25 Q. Now, with regard to -- I believe you said

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1 there was a wire that went from the camera to the  
2 fourth floor; is that correct?

3 A. My front security people told me that the  
4 wires, once they found the camera outside, that it went  
5 all the way up to the fourth floor and over. My rear  
6 security man, we have people in the front and rear just  
7 in case something comes out of windows, people try to  
8 flee from windows, he told me the cable were running  
9 into that apartment, into the fourth floor.

10 Q. The front security people are people standing  
11 on Lenox Avenue?

12 A. Front security on Lenox Avenue, rear security  
13 behind the building, yes, sir.

14 Q. This was front security? I believe that's  
15 what you said.

16 A. Front security told me they went to the top of  
17 the building and the rear security told me it went in  
18 the back of the apartment.

19 Q. So I'm sorry, what did front security tell  
20 you?

21 A. When they found the camera, the wires from the  
22 camera went up to the top of the building, which led up  
23 to the fourth floor. The rear security then told me  
24 that it went into the back corner apartment.

25 Q. Let me show you what has been marked

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1 Defendant's Exhibit I in evidence. Before I show it to  
2 you, that day or some point in time during the  
3 investigation of 451 Lenox Avenue, did you look at the  
4 front of the building?

5 A. Numerous times.

6 Q. I'd like you to take a look at what has been  
7 marked Defendant's Exhibit I in evidence.

8 A. Yes.

9 Q. Do you recognize what's in that item?

10 A. This is the front of the building.

11 Q. It doesn't show the entrance to the building?

12 A. No.

13 Q. Looking at that photograph carefully, would  
14 you say it fairly and accurately represents the front  
15 of the building as it appeared on November 1, 2007?

16 A. No.

17 Q. What's different?

18 A. Well, first off it was November, there were no  
19 air conditioners in the windows, and all the cables  
20 weren't there.

21 Q. There were no air conditioners in the windows.  
22 That's what your recollection is?

23 A. I don't remember there was air conditioners  
24 being that it was November, and they didn't have all  
25 cables on the front of the building.

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1 Q. So, what did your front security team see? Do  
2 you recall?

3 A. They told me there was a cable going from the  
4 camera up to top of the building and then when rear  
5 security also heard that on the radio, he told me the  
6 cable was going into the rear apartment.

7 Q. From looking at that photograph, do you have  
8 an idea of where the camera was?

9 A. No, sir. I was in the building when it was  
10 recovered, but it was facing --

11 Q. From your information, when you were on the  
12 second floor and able to see certain things. Based on  
13 what you were able to see, where were the camera?

14 A. Inside the awning.

15 Q. The front security team said there was a cable  
16 running from the camera up to the fourth floor?

17 A. Correct.

18 Q. Look carefully at the picture. Do you see such  
19 a cable that could possibly correspond with the  
20 description that was given to you by your front  
21 security?

22 A. There is one cable that doesn't lead to any of  
23 the front apartments, yes, but I'm not sure that was  
24 the cable at the time.

25 Q. Your testimony is with regard to the other

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1 cables in the picture, you do not recall seeing them on  
2 November 1, 2007?

3 A. That's correct, sir.

4 Q. I believe you also indicated that in that  
5 picture you see air conditioning devices around. They  
6 weren't there also on November 1, 2007?

7 A. I don't remember, no.

8 Q. Now, Detective Romero, as the arresting  
9 officer, you prepared the majority of the paperwork in  
10 this case?

11 A. With assistance from my team, yes.

12 Q. Do you recall, with regard to Mr. Green, that  
13 there was a wallet recovered from him?

14 A. I'm not sure, sure. I didn't -- I was down  
15 getting a search warrant when he was being processed at  
16 the processing facility at the 2-5 Precinct.

17 Q. Do you recall Mr. Green having a New York  
18 State identification card with a Bronx address?

19 A. I don't remember his exact ID, but he gave me  
20 an Ogden Avenue address in the Bronx.

21 Q. When he gave you that, he told you that?

22 A. That's the pedigree he gave my team.

23 Q. What do you mean by "team"?

24 A. Like I just said, after he was put into  
25 custody, he was removed from the apartment, I left the

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1 apartment, I left the building at that time and went  
2 down to 100 Centre Street to obtain a search warrant.  
3 The rest of the search team processed the arrest. I  
4 was down here when he was being processed.

5 THE COURT: Processing, the police ask  
6 date of birth, name, address among other things?

7 THE WITNESS: That's correct.

8 THE COURT: One of the team members asked  
9 him and he said Ogden Avenue in the Bronx?

10 THE WITNESS: Correct.

11 Q. That's what you were told?

12 A. Yes, sir.

13 Q. You don't recall the wallet being recovered  
14 from him?

15 A. No, sir. All I really did was just check him  
16 fast for weapons, handcuffed him, and then went, like I  
17 said, to come down here.

18 Q. The \$338 recovered from him, you don't recall  
19 that being in a wallet?

20 A. I know he had money on him, and it was  
21 vouchered by one of the detectives who processed him.  
22 I believe it was recovered from him at the processing  
23 center.

24 Q. But you just don't recall the wallet or the  
25 identification?

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1 A. Like I said, sir, I don't.

2 Q. Just to be clear, with regard to the items  
3 that were in open view, is it fair to say that there  
4 was a table with the glass top that had on it what  
5 appeared to be cocaine residue or white powder?

6 A. That is correct.

7 Q. And there was also a digital scale with some  
8 white powder on it?

9 A. Numerous scales, but, yes, right on the table  
10 there was a scale with residue.

11 Q. A scale where? Where is your recollection of  
12 there being a scale that was out in the open?

13 A. I believe it was on the work table. I'm not  
14 sure. There was a bunch of scales.

15 Q. There was a bunch of scales out in the open?

16 A. No, recovered from the apartment.

17 Q. I'm saying with regard to what you used to get  
18 the search warrant and what your recollection is when  
19 you went into the fourth floor apartment, just so the  
20 jury will know what was out in the open, there was one  
21 digital scale out in the open?

22 A. I'm not sure exactly. I would look at the  
23 inventory and see where everything was.

24 Q. Would it refresh your recollection to look at  
25 the search warrant affidavit?

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1 A. It would be better to look.

2 Q. Excuse me?

3 A. There is an inventory done by Detective  
4 Hernandez that lays out everything in the apartment.

5 Q. Right, that's the other stuff. I'm talking  
6 about the stuff that was out in the open. The plain  
7 view --

8 A. Everything recovered in the apartment was  
9 listed on that inventory.

10 Q. Right, I understand that.

11 THE COURT: Was it listed where it was  
12 located, and the conditions under which and  
13 circumstances in which it was found?

14 THE WITNESS: Yes, sir.

15 Q. On the voucher?

16 A. No, on the inventory that Detective Hernandez  
17 did of the room.

18 Q. On the handwritten note?

19 A. Correct.

20 Q. When was that inventory prepared?

21 A. After the search warrant was signed and then  
22 they conducted the search.

23 Q. So it was prepared that day?

24 A. Correct.

25 THE COURT: Prepared in the apartment or

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